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ACCOUNTS AND PAPERS;

FORTY-THREE VOLUMES.

—(42.)—

STATE PAPERS—*continued.*

HONDURAS; PERU; PORTUGAL; SPAIN;
SWITZERLAND; TURKEY.

Session

5 February — 13 August 1875.

VOL. LXXXIII.

1875.

ACCOUNTS AND PAPERS:

1875.

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HONDURAS. No. 1 (1875).

LETTER

FROM

M. GUTIERREZ,

OF THE

3RD AUGUST, 1875,

WITH

REPLY,

ON THE

SUBJECT OF THE HONDURAS LOANS.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

[C.—1290.] *Price 1d.*

Letter from M. Gutierrez of the 3rd August, 1875, with Reply,
on the subject of the Honduras Loans.

No. 1.

Señor Gutierrez to the Earl of Derby.—(Received August 3.)

(Translation.)

My Lord,

*Honduras Legation, Cornwall House, Tuffnell Park,
Carlton Road, London, August 3, 1875.*

THE Report which the Select Committee on Foreign Loans presented to the House of Commons on the 30th July ultimo, and which was publicly circulated in print, has painfully attracted my attention, not only because it is based on evidence notoriously *ex parte*, much of which it was not possible to refute or to weaken on account of the anomalous organization of the Select Committee, but also because the Select Committee, overstepping, in my opinion, its powers, casts a very grave censure on my official acts, performed as the Representative of my Government with the greatest good faith; a censure which I consider both unjust and irregular. Unjust, because it is not based on the plenitude of proofs which impartiality and justice require; irregular, because the Select Committee on Foreign Loans was not and could not be authorized to cast such a censure on the acts of a foreign Minister performed in the name of his Government. An unjust censure, my Lord, because it is founded on partial evidence, against which no legal confrontation was allowed, though some of the witnesses evidently perjured themselves; and it is founded on the interpretation of clauses in the contracts, the interpretation whereof belongs to Courts of Justice, and not to a Select Committee of a legislative body. An irregular censure, my Lord, because I do not discover on what part of the public law, or of the English constitutional legislation, civil or criminal, the Select Committee can rely for constituting itself accuser and censor of the acts of a foreign Minister, performed in the name of his Government, which has recognized them as its own and has made itself responsible for them.

The Report of the Select Committee being as yet incomplete as to all the appendixes which it refers to, I wait until they are made public to refute and to demonstrate the inaccuracy of some things which are stated as real facts in the said Report; but meanwhile let me be allowed to deny at once and absolutely some of the asseverations which constitute the censure of the Select Committee on my official acts.

The Report says that I was a party to the purchase of the cargoes of timber, and that I allowed the public to be misled by the announcement of those cargoes. This is altogether incorrect. The Honduras Government was to receive certain sums to organize the cutting of mahogany; those sums could not be remitted all at once; and, as the Government could not organize the cutting of mahogany for want of funds, it bought and consigned cargoes cut by speculators, and the Legation in London knew nothing more at the time than that they were consigned on account of the Government. The Report says that I assisted M. Lefevre to appropriate large sums from the loans, to which he was not entitled. This is also incorrect. M. Lefevre may have interpreted clauses of the contracts in such a manner that his interpretation induced him to believe that he might appropriate those sums. But that was not the spirit of the contracts when they were signed, and much less with my consent. And it is a legal question whether such interpretation is equitable, the other clauses of the contracts not having been fulfilled which related to the principal object of the application of the loans. The Committee makes the most unjust charge, that I, after having offered, did not furnish the Committee with all the documents which could throw light on the

question. This assertion is altogether incorrect. The very day after the appointment of the Committee, I voluntarily offered all the antecedents which I had at my disposal. I sent immediately, in Spanish, and afterwards in English, the "Historical Account," that it might serve as a basis for the Committee to call witnesses, and to ask for any document or antecedent which might serve as a voucher or might throw light on the question. The Select Committee has not asked me for any document except those which I got from Messrs. Ford and Widdecombe, which I myself offered to place, and did place, at the disposal of the Committee as soon as I had extracted from them important notes for my own safeguard and the interests of my Government. Those very documents and books which were in the possession of Messrs. Ford and Widdecombe, the Legation had not been able to obtain before, nor would have obtained them without the initiative of the Select Committee, unless by application to the tribunals. On the other hand, I have, through your Excellency, given every kind of explanation in my power, and I have asked persistently that the Committee would indicate what documents or explanations it might require from the Legation. The Chairman of the Select Committee, Mr. Lowe, gave his opinion that I ought to present myself to give evidence. My evidence, given without having at hand all the necessary documents to serve me as a guide, and without having an advocate to give counsel as to the pertinent questions, might have caused serious damage to interests which are in litigation, or to persons who had not the right of defence which is granted in the Courts of Justice. Besides, the originator of the Committee, Sir H. James, had constituted himself my accuser in asking for the appointment of the Select Committee, and in that Committee it was he who conducted the examinations on a question already prejudged by himself.

The Select Committee also declares, on evidence, that the part of the railway already constructed is abandoned. This is likewise incorrect. The railway is working, as far as it is constructed, up to the present time, under the immediate inspection of the Government and the direction of the English Vice-Consul, Mr. Bain.

I hope, my Lord, that the foregoing elucidations will carry conviction to your Excellency's mind that in the part which I have taken in contracting with Messrs. Bischoffsheim, in the name of my Government, for the loans to construct the Honduras Railway, I have not only acted with the greatest good faith, but that I have attended to the instructions of my Government for the purpose of completing the railway, in the midst of most difficult circumstances; that being the sole object which the Government has in view, at any price and at any sacrifice, under the conviction that on the completion of the railway depends the ability of the Government to fulfil its engagements or to make equitable arrangements with the bondholders. And on this view, the censure passed by the Select Committee on my acts in the name of my Government, considering the unforeseen circumstances which have actuated them, is void of all foundation; for there was no possibility on my part of preventing the consequences or of avoiding the contracts which have been made.

With, &c.
(Signed) CARLOS GUTIERREZ.

No. 2.

The Earl of Derby to Señor Gutierrez.

M. le Ministre,

Foreign Office, August 7, 1875.

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, in which you comment upon the Report of the Select Committee of the House of Commons on Foreign Loans.

I have, &c.
(Signed) DERBY.

HONDURAS. No. 1 (1875).

LETTER from M. Gutierrez of the 3rd August,
1875, with Reply, on the subject of the Honduras
Loans.

*Presented to both Houses of Parliament by Command
of Her Majesty. 1875.*

LONDON:

PRINTED BY HARRISON AND SONS.

HONDURAS. No. 2 (1875).

FURTHER CORRESPONDENCE

WITH

M. GUTIERREZ

ON THE SUBJECT OF THE

HONDURAS LOANS.

(In continuation of "Honduras No. 1," presented to Parliament August 11, 1875.)

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

[C.—1367.] Price 1d.

Further Correspondence with M. Gutierrez on the subject of the Honduras Loans.

(In continuation of "Honduras No. 1," presented to Parliament August 11, 1875.)

No. 1.

Señor Gutierrez to the Earl of Derby.—(Received August 7.)

(Translation.)
My Lord,

*Honduras Legation, Cornwall House, Tufnell Park,
Carlton Road, London, August 7, 1875.*

I HAVE read in the newspapers that Sir John Lubbock has given notice, "that on Monday next he will ask the Under-Secretary of State for Foreign Affairs whether, in consequence of the statement in the Report of the Committee on Foreign Loans, any steps have been taken by Her Majesty's Government with reference to the Representative of Honduras in Great Britain."

In the communication which I addressed to your Excellency on the 3rd instant, I had the honour of stating to your Excellency that the censure which the Committee has passed on my official acts, as representative of my Government, is unjust and irregular; and in the same note I refuted some of the points upon which that censure is based. I likewise informed your Excellency that I am preparing a refutation of the charges upon which the censure is based in the part which affects the fulfilment of my official duties. When that refutation shall be before your Excellency, your Excellency will be able to discern that the censure of the Committee is not even based on the exactitude of the facts, and all the official acts in which, as representative of the Government of Honduras, I have taken part in connection with those loans and the railway, have been performed with the most perfect good faith, both on the part of the Government which ordered them, and on my part, who executed its orders.

Meanwhile, my Lord, I cannot but protest against the consequences which may ensue both in regard to the interests of my Government, and in regard to its projects of arrangement with the bondholders, if, as the result of the Committee's Report, an initiative be taken in Parliament which is not based on facts defined by a competent tribunal.

I repeat, &c.

(Signed) CARLOS GUTIERREZ.

No. 2.

The Earl of Derby to Señor Gutierrez.

M. le Ministre,

Foreign Office, August 12, 1875.

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, relative to the Report of the Select Committee of the House of Commons on Foreign Loans.

I have, &c.

(Signed) DERBY.

No. 3.

Señor Gutierrez to the Earl of Derby.—(Received August 12.)

(Translation.)

My Lord,

*Honduras Legation, Cornwall House, Tufnell Park,
London, August 11, 1875.*

THE profound moral affliction which I have felt on account of the most unjust and cruel charges made against me personally, and especially the question asked in the House of Commons on Monday last, have made it impossible for me to write to your Excellency until now upon this matter. And now I only write to repel with indignation such evil-intentioned inculpations.

The Honduras loans, my Lord, were issued for the sole purpose of opening an inter-oceanic railway from sea to sea in Honduras, for the great advantage and benefit of Great Britain, of my country, and of the whole world, as is expressed in a solemn Treaty concluded between England and the Republic of Honduras.

In conformity with the instructions from my country, I have laboured for years in this direction, and I make bold to assert, with perfect good conscience, that the rule of my actions and my conduct has been to bring that magnificent enterprize to a successful conclusion and termination, to the complete and total exclusion of the personal views which have been, with such flagrant injustice, imputed to me.

The Select Committee in its report has taken no account of the Treaty to which I refer, nor of any evidence showing the excellence and value of the Honduras inter-oceanic line, nor of the vast and inexhaustible resources of my country. I can show that the attacks upon me are void of foundation, and this I shall be able to prove in the documentary statement which I am preparing, and which I intend, with your Excellency's favour, to send to your Excellency in a few days.

In conclusion, let me be allowed, my Lord, to express my gratitude for the answer given in the House of Commons by the Right Honourable the Under-Secretary for Foreign Affairs, an answer which, your Excellency will permit me to say, bears the stamp of English rectitude and manliness, and is all that I could desire.

With assurances, &c.
(Signed) CARLOS GUTIERREZ.

No. 4.

The Earl of Derby to Señor Gutierrez.

M. le Ministre,

Foreign Office, August 13, 1875.

I HAVE the honour to acknowledge the receipt of your letter of the 11th instant, containing further remarks on the Report of the Select Committee of the House of Commons on Foreign Loans.

I have, &c.
(Signed) DERBY.

INTERNATIONAL METRIC COMMISSION AT PARIS.

P A P E R S

RELATING TO THE

MEETING AND PROCEEDINGS OF THE DIPLOMATIC
CONFERENCE AT PARIS,

FOR

MAKING PROVISION, BY MEANS OF A CONVENTION,
FOR EFFECTING THE OBJECTS OF
THE INTERNATIONAL METRIC COMMISSION.

(Continued from No. 714 of 1873.)

Presented to both Houses of Parliament by Command of Her Majesty.



LONDON :

PRINTED BY GEORGE E. EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1875.

[C.—1331.] *Price 3d.*

PAPERS relating to the Meeting and Proceedings of the Diplomatic Conference at Paris for making provision, by means of a Convention, for effecting the objects of the International Metric Commission.

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P A P E R S

RELATING TO THE

Meeting and Proceedings of the Diplomatic Conference at Paris
for making provision, by means of a Convention, for effecting
the objects of the International Metric Commission.

(1.)

FOREIGN OFFICE TO BOARD OF TRADE.

Foreign Office,
November 28, 1874.

SIR,

I AM directed by the Earl of Derby to transmit to you copies of a note, and of its enclosure from the French ambassador at this court, relative to the proceedings of the Permanent Committee of the International Metric Commission, and expressing the hope of the French Government that the Government of Her Majesty will take part in a Conference on this subject, and I am to request that in laying these papers before the Lords of Trade, you will refer their lordships to your letter to this office of the 30th ultimo, wherein it is stated that in the event of the invitation to this country to take part in the Conference being renewed, the opportunity so afforded of reconsidering both that question and that of the permanent office, might be taken advantage of by Her Majesty's Government.

2, 3.

Having regard, therefore, to the above letter, I am further to request that the Board of Trade will cause Lord Derby to be informed, at their early convenience, of the course which their Lordships may propose to pursue in respect of the present invitation on the part of the French Government.

I am, &c.

The Secretary to the
Board of Trade.

(Signed) TENTERDEN.

(2.)

FRENCH AMBASSADOR to EARL OF DERBY.

M. LE COMTE, Londres, le 21 Nov. 1874.

J'AI l'honneur de transmettre ci-joint à V. E., à titre d'information, une copie de la circulaire que M. le Duc Decazes a envoyée récemment aux agents diplomatiques Français au sujet des résolutions adoptées par le Comité Permanent de la Commission Internationale du Mètre.

En me chargeant de cette communication, M. le Ministre des Aff. Étr. m'a répété combien il en serait heureux qu'un nouvel examen de la question pût engager le gouvernement de la Reine à prendre part aux travaux de la Conférence qui doit avoir lieu, et il ajoute qu'en exprimait ce sentiment, il est certain d'être l'interprète fidèle de tous les gouvernements qui s'y feront représenter.

Veuillez, &c.

S. E.

(Signé) JARNAC.

M. le Comte de Derby.

(3.)

Enclosure in (2.)

CIRCULAR OF FRENCH GOVERNMENT.

Copie circulaire.

MONSIEUR,

Paris, le 7 Novembre 1874.

J'AI eu l'honneur de vous communiquer, le 3 Novembre de l'année dernière, pour être portée à la connaissance du gouvernement auprès du quel vous êtes accrédité, une délibération d'un Comité Permanent de la Commission Internationale du Mètre, ayant pour objet provoquer la réunion, à Paris, d'une conférence diplomatique qui prendrait les dispositions nécessaires pour mettre le comité à même d'effectuer les nombreuses vérifications dont il est chargé. Cette conférence devait en outre avoir pour mission d'assurer la conservation des étalons prototypes internationaux, et l'exécution des comparaisons ultérieures des mètres et des kilogrammes dont les différents gouvernements pourraient faire la demande.

Cette proposition du Comité Permanent, transmise à tous les états représentés dans la Commission Internationale du Mètre, a obtenu l'adhésion d'un certain nombre d'entre eux: l'Allemagne, la Belgique, le Brésil, la Colombie, le Danemark, l'Espagne, les Pays Bas, la Russie, la Suède et Norvège, et la Suisse.

L'Allemagne a donné son assentiment sous la seule réserve que la Conférence aurait "à fixer et préciser des conditions de " stricte neutralité pour l'organisation du dépôt du contrôle, " et de l'emploi des prototypes communs par une institution " scientifique permanente.

La Russie, en se déclarant prête à prendre part à la Conférence, exprime le vœu que les questions scientifiques ne lui soient pas seules soumises, mais que la plus grande latitude lui soit laissée pour l'examen de tous les points qui pourraient se rattacher à la mission confiée à la Commission Internationale du Mètre.

Ces réserves n'ont rien que de conforme au vœu émis par le Comité Permanent; elles seront, je n'en doute pas, acceptées par tous les gouvernements.

L'Angleterre est la seule puissance qui ait cru devoir décliner la proposition du Comité Permanent, en se fondant sur ce que l'intérêt qu'elle pourrait avoir à adopter le système métrique et à reconnaître un étalon international, ne serait pas suffisamment direct et immédiate pour qu'elle serait autorisée à demander au Parlement l'ouverture d'un crédit spécial.

Les autres États, c'est à dire l'Autriche-Hongrie, les États Unis, l'Italie, le Portugal, la Turquie, la Grèce, et la plupart des gouvernements de l'Amérique méridionale, n'ont point encore fait connaître leur réponse.

Tel était, Monsieur, l'état de la question lorsque, dans sa session du mois dernier, le Comité Permanent, a pris et communiqué au Gouvernement Français la résolution :

“Vu le grande nombre de réponses favorables des états intéressés au sujet de la demande qu'il a faite, l'an dernier, au Gouvernement Français d'une Conférence Diplomatique, chargée de mettre le Comité à même d'exécuter tous les travaux qui lui incombent, ainsi que d'assurer la conservation des prototypes internationaux et des comparaisons à faire dans l'avenir, le Comité Permanent charge son bureau de s'adresser au Gouvernement Français pour le prier de convoquer à Paris la Conférence diplomatique dans le plus bref délai possible.”

Le Gouvernement Français ne peut que s'associer à ce vœu, il lui paraît essentiel, en effet, de ne point ajourner plus longtemps la convocation de la Conférence, appelée à conclure une Convention qui assure aux travaux de la Commission du Mètre, au dépôt des étalons, à leur conservation, et à leur usage ultérieur, une organisation internationale. Il a donc été décidé, Monsieur, que cette convocation serait officiellement adressée non seulement aux gouvernements qui ont déjà notifié leur adhésion, mais également à ceux qui n'ont point encore fait connaître leur réponse à la proposition du Comité Permanent, dans la conviction que les derniers n'hésiteront pas à prendre part à des délibérations d'une importance aussi considérable et d'un intérêt aussi universel.

Le but de cette conférence étant de conclure une convention diplomatique sur des matières dont la plus grande partie exigera des connaissances techniques, elle me paraît devoir se réunir dans des conditions analogues à celles de la Conférence Télégraphique Internationale qui s'est tenue à Paris en 1869. Chaque Gouvernement munirait donc son représentant diplomatique accrédité en France des pleins pouvoirs nécessaires pour la signature de la convention, en y adjoignant, s'il le jugera propos, un ou plusieurs

délégués spéciaux pour le cas, en suivant la marche adoptée en 1869, la conférence croirait devoir confier à une commission, composée en grande partie de ces délégués, le soin d'élaborer un projet de convention qui serait ensuite soumis à son approbation.

Ne doutant pas que ce mode de procéder, qui semble le mieux indiqué pour arriver à un résultat utile, ne rencontre l'assentiment de tous les états, le Gouvernement Français a déjà fait choix, pour le représenter comme délégués spéciaux au sein de la conférence, de M. Dumas, Secrétaire Perpétuel de l'Académie des Sciences, ancien Ministre du Commerce, et de M. le Général Morin, Directeur du Conservatoire des Arts et Métiers.

Quant à l'époque de la conférence, nous proposerions de la fixer au Lundi 1 Février prochain. Ce délai paraissait strictement nécessaire pour permettre à tous les gouvernements qui ont prit part aux travaux de la Commission Internationale du Mètre, de recevoir leur convocation et d'arrêter leurs dispositions.

Je vous prie, Monsieur, de vouloir l'en faire de la présente communication l'objet d'une note que vous adresserez au gouvernement auprès du quel vous êtes accrédité ; et je vous serai obligé de me faire connaître sa réponse dans le plus bref délai possible, ainsi que les noms des délégués spéciaux qu'il croirait devoir désigner pour assister son représentant diplomatique à Paris.

Recevez, &c.

DECAZES.

(4.)

BOARD OF TRADE to FOREIGN OFFICE.

Board of Trade,

December 8th, 1874.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 28th ulto., transmitting copies of a note, and its enclosures, from the French Ambassador at this court, relative to the proceedings of the Permanent Committee of the International Metric Commission, and expressing the hope of the French Government that the Government of Her Majesty will take part in a conference on this subject.

In compliance with your request that this Department will cause Lord Derby to be informed as to the course which they may propose to pursue in respect of the present invitation on the part of the French Government, I am to request that you will state to his Lordship that the Board of Trade entertain a favourable opinion, in international interests, of the usefulness of this country having a representative at the proposed Conference, and that they think that the Warden of the Standards, Mr. H. W. Chisholm, is the person best qualified for such a commission.

*

*

*

I have, &c.

The Under Secretary of State,
Foreign Office.

C. CECIL TREVOR.

(5.)

FOREIGN OFFICE to BOARD OF TRADE.

Foreign Office,
Feb'y. 24th, 1875.

SIR,

I AM directed by the Secretary of State for this Department to transmit to you, for the information of the Lords Commissioners of the Privy Council for Trade, a despatch under flying seal which his Lordship has addressed to Her Majesty's Ambassador at Paris, announcing to his Excellency the appointment of Mr. Chisholm to attend the International Conference on the Metric system.

I am, &c.
ROBERT BOURKE.

The Secretary,
Board of Trade.

(6.)

EARL OF DERBY to LORD LYONS, Ambassador at Paris.

Foreign Office,
Feb'y. 24th, 1875.

MY LORD,

THIS despatch will be presented to your Excellency by Mr. H. W. Chisholm, the Warden of the Standards, who has been selected by Her Majesty's Government to represent this country at the International Metric Conference, which has been appointed to meet at Paris on the 1st proximo; and I have to request that you will give the requisite introductions to Mr. Chisholm, and place him in communication with such of the authorities at Paris as may be concerned with the Commission in question.

The special purpose of Mr. Chisholm's presence at the Commission will be that he should communicate with his colleagues as to the technical questions to be laid before the Conference for discussion and decision, and also be present at the meetings of the Conference, and give information of their proceeding to Her Majesty's Government.

It is at the same time to be understood, that in accrediting Mr. Chisholm to the Conference, it is the intention of Her Majesty's Government that he should not in any way commit them to any particular line of action; but that they shall be free to adopt or reject any conclusions to which the Conference may come, which conclusions cannot be of any force in this country, until approved by Her Majesty's Government, and sanctioned by Parliament.

It is also to be understood that the decision of Her Majesty's Government, as at present advised, is not to take part in, or to spend money on any permanent International office or Commission;

and Mr. Chisholm's proceedings must therefore be so regulated as to be consistent with this decision, and so as to give no ground for future complaint on the part of Foreign governments if that decision is rigidly acted on.

I am, &c.

His Excellency

The Right Hon.

The Lord Lyons, G.C.B.

DERBY.

(7.)

DUC DECAZES to LORD LYONS.

M. L'AMBASSADEUR,

Paris, le 28 Fév. 1875.

J'AI reçu la lettre, en date d'hier, par laquelle votre excellence bien voulu m'annoncer que le Gouvernement de Sa Britannique Majesté avait délégué M. Chisholm, conservateur des étalons, pour participer, sous certaines réserves dont j'ai fait note, aux travaux de la Conférence diplomatique du mètre.

Je ne puis que remercier votre excellence de cette communication, qui sera accueillie par la Conférence avec une satisfaction égale de la mienne.

Je m'empresse de vous faire savoir que la première réunion aura lieu demain, Lundi, 1 Mars, à une heure, au Ministère des Affaires Étrangères, et je serai obligé à votre excellence de vouloir bien en donner avis à M. Chisholm.

Agréé, &c.

DECAZES.

(8.)

TREASURY to BOARD OF TRADE.

Treasury Chambers,

SIR,

12th April 1875.

* * * * *

With regard to Mr. Chisholm's request for explicit instructions, their Lordships are of opinion that he should be authorised to support the proposal "that the attention of the conference should be directed to providing for what was more immediately the object of the Commission, and that all questions relating to the establishment and maintenance of a permanent bureau, with enlarged scientific functions, should be left to be settled by a future conference." After the correspondence that has passed on the subject, it is perhaps needless to remark that Her Majesty's Government would take no part in such a conference.

For the present all that is necessary is to arrive at an understanding as to what the "more immediate objects of the Commission" are. Mr. Chisholm defines them to be:—

- (1.) The completion of the new metric standards.
- (2.) Their distribution.

- (3.) The deposit (and custody) of the prototypes, with their instruments, so as to be available for future comparisons of the new standards.

So far as this may be taken to be a definition of the limits within which the discussions of the present conference should be confined, their lordships agree to it, but they do not regard their consent as placing them under any obligation to sanction hereafter any expenditure in respect of the above objects, except so far as they may be purely scientific.

As stated in the letter of this Board of the 8th ulto., the interest of this country in these metrological proceedings is solely scientific, and their Lordships therefore wish that Mr. Chisholm should clearly understand that it is only from that point of view that the British delegates should take part in them.

With the practical application of the system they have nothing to do, and should decline to enter into any discussions connected with that part of the question.

I am, &c.

W. H. SMITH.

The Secretary
Board of Trade.

(9.)

BOARD OF TRADE TO TREASURY.

Board of Trade,

14th May 1875.

SIR,

WITH reference to your letter of the 12th ulto., on the (7993.) subject of the instructions to be given to the Warden of the Standards upon the occasion of his attending the sittings of the International Metric Conference recently convoked at Paris, I am, &c. to transmit to you the accompanying report upon the proceedings of the conference which has been received from the Warden, and to request that in laying the same before the Lords Commissioners of Her Majesty's Treasury you will move them to favour this Board with directions as to the course to be pursued with regard to the questions raised by Mr. Chisholm.

It is to be observed that should Her Majesty's Government decide at the present moment not to take part in the proposed Convention, a draft of which is attached to the Warden's report, it will always remain open to them, under Art. 11, to reconsider their decision at any future time.

I am to request that the enclosures accompanying this letter, which are in original, may be returned with your reply.

I have, &c.

The Secretary, Treasury.

C. CECIL TREVOR.

(10.)

(10.)

To the BOARD OF TRADE.

REPORT upon the PROCEEDINGS of the DIPLOMATIC CONFERENCE held at Paris in March and April 1875, for making Provision, by Means of a Convention, for effecting the Objects of the International Metric Commission.

By Mr. CHISHOLM, Warden of the Standards, Representative of Great Britain at the Conference.

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1. First meeting of conference, 1st March 1875.

1. The Conference held its first meeting on Monday, 1st March 1875, at the Foreign Office in Paris.

Out of the 30 countries represented in the International Metric Commission, the governments of 20 of the principal countries were

represented at the Conference. The remaining countries not represented at the Conference were as follows :—

Bavaria.	Haiti.
Chili.	Nicaragua.
Colombia.	Salvador.
Equator.	Uruguay.
Guatemala.	

together with the Papal See, to which no invitation was sent by the French Government.

2. The countries represented at the Conference, and their plenipotentiaries and delegates, were as follows :—

2. Countries represented and names of representatives.

Countries.	Plenipotentiaries.	Delegates.
GERMANY - -	Prince of Hohenlohe Schillingfürst, Ambassador Extraordinary and Plenipotentiary.	Dr. Förster,** Director of the Imperial German Standards Commission, and Director of the Observatory at Berlin.
ARGENTINE RE-PUBLIC.	M. Balcarce, Envoy Extraordinary and Minister Plenipotentiary.	—
AUSTRIA AND HUNGARY.	Count Apponyi, Ambassador Extraordinary.	Dr. J. Herr,** Director of the Austrian Standards Commission, Professor of Geodesy and Astronomy at Vienna.
BELGIUM - -	Baron Beyens, Envoy Extraordinary and Minister Plenipotentiary.	M. Stas,** Member of the Royal Academy at Brussels.
BRAZIL - -	Vicount Itajuba, Envoy Extraordinary and Minister Plenipotentiary.	General Morin,** Member of the Institute of France.
DENMARK - -	Count de Moltke-Hvitfeldt, Envoy Extraordinary and Minister Plenipotentiary.	M. Holten,* Professor of Physics at Copenhagen, and Member of the Danish Royal Academy of Sciences.
SPAIN - -	Marquis de Molins, Ambassador Extraordinary. General Ibañez,** Director of the Geographical and Statistical Institute of Spain, and Membre of the Academy of Sciences at Madrid.	—
UNITED STATES OF AMERICA.	Mr. E. B. Washburne, Envoy Extraordinary and Minister Plenipotentiary.	M. Henri Vignaud.
FRANCE - -	Duc Decazes, Minister of Foreign Affairs. Vicomte de Meaux, Minister of Agriculture and Commerce.	M. Dumas, formerly Minister of State, Secretary of the <i>Académie des Sciences</i> at Paris. General Morin,** Member of the Institute, and Director of the <i>Conservatoire des Arts et Métiers</i> at Paris. M. Pélilot,** Member of the Institute, and Master of the Mint at Paris. M. Dumoustrier de Frédilly, <i>Directeur de Commerce au Ministère de l'Agriculture</i> . M. Jagerschmidt, <i>Sous-Directeur au Ministère des Affaires Etrangères</i> .

Countries.	Plenipotentiaries.	Delegates.
GREAT BRITAIN -	—	Mr. Chisholm, Warden of the Standards at London.
GREECE -	M. Coundourioti, Envoy Extraordinary and Minister Plenipotentiary.	M. Delyanni, Secretary of Legation.
ITALY -	Chevalier Nigra, Envoy Extraordinary and Minister Plenipotentiary.	M. Govi,* Professor of Physics at Turin.
HOLLAND -	Baron Zuyley de Nyevelt, Envoy Extraordinary and Minister Plenipotentiary.	M. Bosscha,** Professor of Physics at Delft, and Member of the Dutch Academy of Sciences.
PERU -	M. Galvez, Envoy Extraordinary and Minister Plenipotentiary. M. de Rivero, formerly Minister Plenipotentiary.	—
PORTUGAL -	M. Mendez Leal, Envoy Extraordinary and Minister Plenipotentiary.	General Morin,** Member of the Institute of France.
RUSSIA -	M. Okouneff, Councillor of State and of the Russian Embassy.	Dr. H. Wild,** Director of the Physical Observatory, and Member of the Imperial Academy of Sciences at St. Petersburg.
SWEDEN AND NORWAY.	Baron Adelswärd, Envoy Extraordinary and Minister Plenipotentiary.	Baron Wrède,** Lieutenant-General, Member of the Academy of Sciences at Stockholm. Dr. Broch,** Professor of Mathematics at Christiania, and Corresponding Member of the Academy of Sciences at Paris.
SWITZERLAND -	M. Kern, Envoy Extraordinary Minister Plenipotentiary.	Dr. Hirsch,* Director of the Observatory at Neuchâtel.
TURKEY -	Husny Bey,** Lieutenant-Colonel, Military Attaché to the Ottoman Embassy at Paris.	—
VENEZUELA -	Dr. E. Acosta.*	—

Those marked * are members of the International Commission, and amongst them are 11 members of its Permanent Committee, marked with a second *. The only absent member of the Permanent Committee was Mr. Hilgard, who was detained at Washington.

3. Proceedings at the meeting.

3. At the opening of the Conference, and on the proposition of Count Apponyi, Duc Decazes was named President. He delivered a discourse on the objects and progress of the International Metric Commission, and of the objects for which the Conference had been convoked. These last objects he divided into two general heads:—

- (1.) The technical subjects for discussion and decision, which were more properly the province of the special delegates.
- (2.) The international objects, which were of a diplomatic character.

He proposed that for the first of these objects the technical delegates should be constituted a Special Commission, in order to draw up specific resolutions for discussion and ultimate decision by the Conference. Special commission for formulating resolutions.

This introductory discourse was followed by some discussion, during which M. Kern proposed that M. Dumas, the first-named delegate for France, should be appointed President of the Special Commission.

Chev. Nigra asked in what position the Permanent Committee now actually stood, when M. Okouneff and Prince Hohenloeschillingfirst both declared that their governments had not recognised this Committee.

General Morin explained that the functions of the Committee were suspended until the Conference afforded them the means of executing their duties, and this view was supported by the President.

Both propositions were then agreed to, and the first meeting of the Special Commission was fixed for Thursday, 4th March, to be held in the conference room of the Foreign Office.

4. At the first meeting of the Special Commission, the President, M. Dumas, stated that the particular subjects to be examined by the Commission were the means by which the verification of the new Metric Standards, as well as the future custody and use of the new prototypes, could best be obtained through an international organisation to be created by a diplomatic convention. Many of the governments interested had declared themselves in favour of the creation of a permanent international bureau, as recommended in the resolutions adopted at the general meeting of the International Metric Commission in 1872, whilst others considered that the objects of the Conference might be attained by other means. He then called upon the delegates to declare what were the instructions of their several governments upon this important point.

4. First meeting of Special Commission.

The results of the declarations made are shown in the following tabular form :—

Declaration of delegates of instructions for or against International Bureau.

In favour of the Permanent International Bureau.	Opposed to the Permanent International Bureau.	No definite Instructions.
Germany. Spain. Italy. Russia. Switzerland.	Great Britain. Greece. Holland. Peru.*	Denmark. United States. North America. France.* Sweden.* Norway.* Turkey.* Portugal. Venezuela.*

The governments of the countries marked * were, however, disposed to concur in any resolutions of the Conference which were adopted by a decisive majority.

It was understood that Belgium was favourable to the Permanent Bureau, as also was Austria, but that Hungary was opposed to it. Brazil was afterwards stated to be opposed to the Permanent Bureau, and the Argentine Republic reserved its decision.

5. Each group to draw up a project of convention.

5. The result of the first meeting of the Commission was to agree that the delegates who were respectively in favour of or opposed to the creation of the Permanent International Bureau should consult together and draw up two projects of a convention, with the view of eventually coming to a common agreement, if possible, as to the form of a convention for attaining the objects of the Conference, and which might be submitted to the plenipotentiaries for discussion and decision.

6. Second meeting of Commission: projects No. 1 and No. 2 presented accordingly.

6. The second meeting of the Special Commission was held on Tuesday, 9th March, when the two projects drawn up by the respective groups were presented in a written form. The original texts of the two projects will be found in the printed Procès Verbal of the second séance.

Project No. 1 for the creation of a permanent International Bureau was presented by the following seven delegates, viz. :—

Dr. Förster (Germany).

Dr. Herr (Austria).

General Ibañez (Spain).

Dr. Wild (Russia).

Dr. Hirsch (Switzerland).

M. Vignaud (United States, North America).

M. Govi (Italy).

The promoters of Project No. 1 declared that it was approved in principle by their respective governments.

In addition to the creation of a Permanent International Bureau, with large scientific functions, as proposed by the Commission of 1872, but to be called the International Metric Institute (*l'Institut International des Poids et Mesures*), Project No. 1 comprehended the following points :—

- I. The Conference to declare their approval and the adoption by the several governments of the scientific work executed by the International Metric Commission and its Permanent Committee.
- II. The mention of this Commission and its Permanent Committee as the *ancient* Commission and Committee.
- III. The dissolution of the International Metric Commission and a re-constitution of the Permanent Committee appointed in 1872.
- IV. The 12 members of the Permanent Committee of 1872, together with the two other members of the Commission who had the next highest number of votes (Dr. Hirsch, *Switzerland*, and M. Govi, *Italy*), to be reconstituted as the International Metric Commission (*Commission Inter-*

nationale des Poids et Mesures), with similar powers and functions to those assigned to the Permanent Committee in 1872, including the direction of the International Bureau.

- V. That this new Commission shall be empowered to fill up any vacancies in their number.
- VI. That upon the completion of the new Metric Standards, a general Metric Conference (*Conférence Générale des Poids et Mesures*), composed of delegates from the countries who are parties to the Convention, shall meet to sanction and distribute the new Standards, and such general Conference shall meet at least every six years.
- VII. That at every such meeting the Conference shall re-elect one half of the new International Metric Commission, the members retiring to be decided by lot, and to be re-eligible.
- VIII. That each country represented at the Conference shall have one vote in the Conference, and shall contribute one share of the expenses of the Bureau, for every million of inhabitants.
- IX. That the cost of establishing the Bureau and purchase of instruments shall not exceed 400,000 fr. (16,000*l.*)
- X. That the annual cost of maintaining the Bureau shall not exceed 100,000 fr. (4,000*l.*), during the period until the new metric standards shall be completed and distributed, and 50,000 fr. (2,000*l.*) afterwards.
- XI. The new prototypes to be deposited at the Bureau under three keys, one to be held by the Director of the Archives at Paris, one by the President of the new Commission, and the third by the Director of the Institute of France.

Project No. 2 was presented by M. Bosscha (Holland) on the part of himself and the following delegates, viz. :—

M. Holken (Denmark).
 Mr. Chisholm (Great Britain).
 M. de Rivero (Peru).
 Genl. Morin (Portugal).
 Baron Wrede (Sweden).

In this project it was proposed to provide for the following points :—

I. An international metric dépôt at Paris, consisting of a suitable building, establishment, and instruments, to be placed at the disposal of the Permanent Committee, for the purpose of verifying the new Standards, and being the deposit of the new prototypes, and to be used for ulterior comparisons of the new Metric Standards.

II. The amount of such expenses to be determined by the Conference, and to be defrayed by contributions from the governments interested, in proportion to their populations, according to a scale to be fixed.

III. The international character and neutrality of the dépôt to be secured by the formation of a Commission for the custody of the new prototypes (*Commission de Conservation des Prototypes Internationaux*), consisting of three members of the diplomatic body at Paris, each having a different key of the place of deposit of these prototypes. All the diplomatic representatives of the countries interested in the prototypes to have the charge of them in turn by a rotation of three years.

IV. The International Metric Commission to meet to receive the reports of the Permanent Committee, and to distribute the new Metric Standards, to draw up regulations for the director of the dépôt relating to the Standards in his charge, and to fix the period of future meetings at distant periods of a new International Commission for further comparisons of the Standards, and then to be dissolved.

It was stated by M. Bosscha, on behalf of the promoters, that this project had been drawn up in a spirit of conciliation, and with the view of meeting as far as possible the views of the other group, and of forming a basis for coming to a common agreement. He said at the same time that its promoters presented it with the express reserve of the ulterior approval of their respective governments.

M. Bosscha added that its promoters were agreed as to the desirability of adding to the Permanent Committee, in the event of its continuance, those two members of the Commission who had the greatest number of votes in 1872 after the members elected.

The two projects were ordered to be printed and discussed at the next meeting of the Special Commission.

7. Third meeting of Commission: the two projects re-printed in diplomatic form of convention.

7. The Third Meeting was held on Friday 12th March, when the President M. Dumas proposed to reprint the two projects in a form more convenient and usual for a Diplomatic Convention, by arranging each under three heads, viz. :—

1. The principal provisions in the ordinary form of a Convention.
2. The Regulating and administrative provisions, to be annexed to the Convention.
3. The Transitory provisions, to be included in a second protocol.

He considered that this method of classification would facilitate the examination of the two projects, and if printed side by side would tend to their being modified so as to lead to a common agreement.

This proposal was agreed to after some discussion.

8. Fourth meeting of Commission.

8. At the Fourth Meeting of the Special Commission on Monday 15 March, printed copies of the two projects in their new form were in the hands of the delegates, and a long discussion took place, which only served to show the wide divergence of opinion of the two parties on three principal points, viz. :—

Two groups unable to agree.

1. The extent of action of the proposed new institution or dépôt.
2. The continuance of the International Metric Commission and its Permanent Committee.
3. The introduction of purely scientific matters for the decision of the Diplomatic Conference.

An adjournment was ultimately agreed to, in order that an endeavour might be made meanwhile to come to a common agreement by the promoters of the two projects personally conferring together.

Adjournment for personal conference between them.

9. The Fifth Meeting of the Special Commission was held on Friday, March 19, when it was announced that the attempt to come to an agreement had proved fruitless.

9. Fifth meeting of Commission.

M. Jägerschmidt, one of the delegates for France, then stated that it was the anxious wish of the French Government that the meeting of the Conference should not be abortive, and that it might be possible to devise an arrangement which would meet with the concurrence of all the governments interested. He suggested as a basis of such an agreement that instead of *one* Convention being concluded there should be *two* Conventions. The first to include all the provisions in which all parties agreed, and which might be signed by the representative of every country, even Great Britain; that is to say, to provide for the more immediate objects, the verification of the new Metric Standards, and the deposit and ulterior use of the new prototypes, as generally contained in Project No. 2. The second Convention to provide for the creation of the International Metric Bureau, as a permanent scientific institution with more extended functions, and continuing in force after the completion and distribution of the new Standards, and the dissolution of the Commission convoked in 1870, at a period when its direct objects had thus been attained. This second Convention might be signed at the same time as the first, but by the representatives of those governments only who were favourable to the creation of such a permanent scientific institution.

Efforts for agreement fruitless.

Proposal of two conventions negatived.

M. Jägerschmidt then read his modified form of the two projects, drawn up in a proper diplomatic form, and assimilated as far as possible to the two original projects without altering their general sense and the intentions of their authors; and he proposed that they should be printed and examined by the delegates, and perhaps still further modified so as to meet with the concurrence of both parties.

This proposal of printing the two projects in their latest modified form was agreed to after some discussion, during which, however, the partisans of Project No. 1 declared that the suggestion of having two separate conventions could not in their opinion be carried out. At the same time several delegates expressed their conviction that no nearer approach to an agreement between the two parties in the Special Commission was possible, and that it was desirable that the two Projects should be laid before the Diplomatic Conference for their ultimate decision, when perhaps a common agreement might be arrived at.

Proposed modifications of the two projects.

10. Sixth meeting of Commission.
Final modified form of the two projects of convention.

10. At the Sixth meeting of the Special Commission on Tuesday 23d March, the two projects printed in the latest modified form were in the hands of the delegates and ready to be submitted to the Diplomatic Conference. Project No. 1 bore the signature of the same 7 delegates, whilst Project No. 2 was approved by the same 6 delegates as before, and also by M. Delyanni (Greece) and Husny Bey (Turkey), but did not bear any signatures, as some of the delegates were awaiting further instructions from their governments.

Declaration of French government in favour of Project No. 1.

The President, M. Dumas, then stated that he was directed by the French Government to declare their views upon the questions under consideration. They had given their best attention to the two Projects, and as it appeared to them that the interests of the Metric System and of science would be best served by the provisions in Project No. 1, for creating an International Metric Bureau, permanent, neuter, and with large scientific functions, they declared their adherence to it, though some slight modifications might still be made in it. Under these circumstances, when so many of the governments of the more important countries represented at the conference were favourable to this project, he expressed a hope that the delegates of those governments who had not been furnished with definite instructions would now endeavour to obtain them, and that even those governments who had declined to take part in the permanent bureau should be consulted, in order to see whether they would give any further instructions under the actual state of things. He proposed that the Commission should adjourn for that purpose.

Adjournment for further instructions to delegates of group No. 2.

This proposal was ultimately agreed to, after some discussion, during which it was declared on the part of the French Government, in answer to a question as to what would be the exact position of the International Metric Commission in the event of the Project No. 1 being adopted by the Conference, that the International Commission would again be found (*se retrouve*) in the *Conference General of Weights and Measures*, and that the *Comité Permanent* elected by the International Commission would continue with the addition of two members to execute its functions under the name of the International Committee of Weights and Measures (*Comité International des Poids et Mesures*). It was expressly stipulated in Article 4 of the Transitory provisions that all those countries whose delegates had taken part in the work of the International Metric Commission at the meeting in 1872, and who had ordered Metric Standards, should be entitled to be represented at the first general meeting for sanctioning these Standards. Consequently in Project No. 1 the same persons, the same objects, and the same guarantees would be found under new names, and the International Metric Commission would continue to be charged under the same conditions, with the duties originally entrusted to it.

Dr. Förster (Germany), on the part of the authors of Project No. 1, confirmed the views of the French Government thus expressed, and declared that the delegates of all the countries

interested ought to continue their co-operation up to the period of the sanction and distribution of the new Standards; and that they considered that even those delegates of non-contracting countries, who were designated as members of the International Committee, might take part in this committee.

11. The seventh and last meeting of the Special Commission was held on Thursday, 1st April, when the representative of each country was asked by the President to declare which project they were now instructed to adopt. The results of these declarations are shown as before in the following tabular form :

For Project No. 1.	For Project No. 2.	Decision postponed.	11. Seventh and last meeting of Commission. Final declaration of delegates as to projects No. 1 and No. 2.
Germany. Austria—Hungary. Belgium. Spain. United States, N. America. Italy. Sweden. Norway. Russia. Switzerland.	Brazil. Portugal. Greece. Holland.	Denmark. Great Britain. Turkey. Venezuela.	

The President declared that France joined the majority for the adoption of Project No. 1; that both projects would be submitted to the Conference, when it was to be hoped that a more unanimous conclusion would be arrived at than had been found possible in the Special Commission, now brought to a close.

12. The following are the terms of these two projects, translated from the French text.

Project of Convention No. 1.

CONVENTION.

Article 1.

The high parties contracting engage to found and maintain at their common expense an *International Bureau of Weights and Measures*, scientific and permanent, its seat to be at Paris.

Article 2.

The French Government will undertake the necessary arrangements for facilitating the acquisition, or, if requisite, the construction of a building to be specially appropriated for this purpose, under the conditions specified in the regulations annexed to the present convention.

Article 3.

The International Bureau will execute its functions under the exclusive direction and superintendence of an *International Com-*

12. Translation of text of the two projects,—to be laid before the Conference for decision.

Project of convention No. 1.

mittee of Weights and Measures, itself placed under the authority of a *General Conference of Weights and Measures*, formed of delegates of all the governments contracting.

Article 4.

The President for the time being of the Academy of Sciences at Paris shall be the President of the Conference General of Weights and Measures.

Article 5.

The organization of the International Bureau, as well as the composition and attributes of the International Committee and of the Conference General of Weights and Measures, are determined by the Regulations annexed to the present Convention.

Article 6.

The International Bureau of Weights and Measures is charged with:—

1. All comparisons and verifications of the new primary Standard Metres and Kilograms :
2. The preservation of the International Prototypes :
3. The periodical comparisons of the National Standards with the International Prototypes and their primary copies, (*témoins*) and of the Standard thermometers :
4. The comparison of the new primary Standards with the fundamental standards of Weights and Measures, other than Metric, in the different countries and in scientific use :
5. The verification and comparison of geodesical instruments :
6. The comparison of Standards and scales of precision, the verification of which may be demanded either by the respective governments, or by scientific societies, or even by artists and by men of science.

Article 7.

The *personnel* of the Bureau shall consist of a director, two assistants, and the requisite number of subordinate officers.

From and after the period of the comparisons of the new Standards, and their distribution amongst the several countries, the *personnel* of the Bureau shall be reduced in the proportion deemed proper.

The appointments of the *personnel* of the Bureau shall be notified by the International Committee to the governments of the high parties contracting.

Article 8.

The international prototypes of the metre and kilogram, as well as their primary copies (*témoins*), shall remain deposited in the bureau; access to this place of deposit shall be reserved exclusively to the International Committee.

Article 9.

All the expenses of the establishment and fitting up of the International Bureau of Weights and Measures, as well as the annual expenses of its maintenance, and those of the Committee, shall be defrayed by contributions from the countries contracting, to be charged according to a scale based on their actual population.

Article 10.

The sums representing the proportion to be contributed by each state contracting shall be paid at the beginning of each year, through the office of the Minister of Foreign Affairs of France, to the *Caisse des Dépôts et Consignations* at Paris, from whence they shall be drawn as may be required by orders of the Director of the Bureau.

Article 11.

The governments which shall make use of the power reserved to every state to take part in the present convention, shall be held chargeable with a contribution the amount of which shall be fixed by the Committee upon the basis established by Article 9, and shall be appropriated to the amelioration of the scientific material of the Bureau.

Article 12.

The high parties contracting reserve to themselves the power of applying to the present convention by common agreement all such modifications as may be found by experience useful.

Article 13.

At the expiration of a term of twelve years, any one of the high parties contracting may withdraw from the present convention.

The government that shall make use of this power of making its provisions to cease, so far as it is concerned, shall be bound to give notice of its intention one year beforehand, and shall, by such act, renounce all its rights of common property in the International Metric Prototypes, and in the Bureau.

Article 14.

The present convention shall be ratified, &c.

REGULATIONS.

Article 1.

The International Bureau of Weights and Measures shall be established in a special building affording all the necessary guarantees of tranquillity and stability.

Besides the locality appropriated to the deposit of the Metric prototypes, it shall comprise rooms for fitting up the comparing instruments and balances, a laboratory, a library, a record room, working rooms for the executive officers, and lodgings for the principal and subordinate officers of the establishment.

election of this permanent committee, obtained the highest number of votes after the members elected.

At the re-election of one half of the International Committee, the members retiring shall be, first, those who in the event of vacancies shall have been provisionally elected in the intervals between any two sessions of the Conference; the others shall be selected by lot.

The retiring members shall be re-eligible.

Article 9.

The International Committee is to direct all the operations relating to the verification of the new primary Metric Standards, and in general all the metrological operations that the high parties contracting shall direct to be executed in common.

It is charged, besides, with the superintendence of the preservation of the International Metric Prototypes.

Article 10.

The International Committee is to constitute itself by choosing its president and secretary by ballot. These appointments shall be notified to the high parties contracting.

The president and the secretary of the Committee, and the director of the bureau, must belong to different countries.

Once constituted, the Committee cannot proceed to any new election or appointment until three months shall have elapsed from the period of notice being given to all the members by the bureau of the Committee.

Article 11.

Up to the period when all the new primary Metric Standards shall be completed and distributed, the Committee shall meet at least once a year; after this period, their meetings shall be at least biennial.

Article 12.

The votes of the Committee shall be taken by the majority of voices; in case the number is equal, the president shall have a casting vote. The decisions shall not be valid unless the number of members present is equal at least to one more than half the number of members composing the Committee.

Under this condition, the absent members shall have the right of delegating their votes to the members present, who must produce proof of this delegation. The same rule is to apply to appointments by ballot.

Article 13.

During the interval between one session and another, the Committee is to have the right to deliberate by correspondence.

In such case, in order that the decision may be valid, it is requisite that all the members of the Committee shall have been appealed to for their opinion.

Article 14.

The International Committee of Weights and Measures is to fill up provisionally any vacancies which may arise in their number; these elections may be made by correspondence, each member being invited to take part in them.

Article 15.

The International Committee shall draw up detailed regulations for organizing the work of the bureau, and shall fix the fees to be paid for the extraordinary work already referred to in Article 6 of the Convention.

These fees shall be appropriated to perfecting the scientific material of the bureau.

Article 16.

All the communications of the International Committee with the governments of the high parties contracting, shall be made through the mediation of their diplomatic representatives at Paris.

In all matters requiring the intervention of a French administration, the Committee shall communicate with the office of the Minister of Foreign Affairs of France.

Article 17.

The Director of the Bureau, as well as the assistants, shall be nominated by the International Committee by ballot.

The subordinate officers are to be nominated by the Director.

The Director is to have a voice at the meetings of the Committee.

Article 18.

The Director of the Bureau shall not have access to the place of deposit of the International Prototypes of the Mètre and Kilogram, except by a special resolution of the Committee, and in presence of two of its members.

The place of deposit of the Prototypes shall be securely closed under three keys, of which one shall be kept in the possession of the Director of the Archives of France, the second in that of the President of the Committee, and the third in that of the Director of the Bureau.

The Standards which are of the same character as the national primary Metric Standards, shall alone serve for the ordinary work of comparisons at the Bureau.

Article 19.

The Director of the Bureau shall address to the Committee every year—

1. A financial report upon the accounts for the preceding period, for which, after examination and approval, he shall receive his discharge.

2. A report upon the state of the material of the Bureau.
3. A general report upon the work done during the course of the past year.

The International Committee on their part shall address to the Governments of all the high parties contracting an annual report on the whole of its scientific, technical, and administrative work, including that of the Bureau.

The President of the Committee shall render account to the Conference General of the work done since the period of its last session.

The reports and publications of the Committee and of the Bureau shall be drawn up in the French language. They shall be printed and communicated to the governments of the high parties contracting.

Article 20.

The scale of contributions mentioned in Article 9 of the Convention shall be fixed as follows:—

The amount of population, expressed in millions, shall be multiplied by—

The co-efficient 3 for those countries in which the Metric System is compulsory.

The co-efficient 2 for those countries in which it is only permissive.

The co-efficient 1 for other countries.

The sum of the products thus obtained will furnish the number of units by which the whole expense must be divided. The quotient will give the amount of the unit of expense.

Article 21.

The costs of completing the International Metric Prototypes, as well as the auxiliary Standards intended to accompany them, shall be defrayed by the high parties contracting according to the scale fixed by the preceding Article.

The costs of comparison and of verification of the Standards demanded by the States who do not take part in the present Convention, shall be regulated by the Committee in conformity with the tariff of fees to be fixed under Article 15 of the Regulations.

Article 22.

The present Regulations shall have the same force and value as the Convention to which it is annexed.

TRANSITORY PROVISIONS.

Article 1.

All the states represented at the International Metric Commission assembled at Paris in 1872, whether contracting parties to the present Convention or not, shall receive the primary Metric

Standards they have ordered, which shall be delivered to them under all the guaranteed conditions determined by the said International Commission.

Article 2.

The first meeting of the Conference General of Weights and Measures, mentioned in Article 3 of the Convention, shall be held for the special object of sanctioning these new primary Metric Standards, and of distributing them amongst the states who have ordered them.

Consequently the delegates of all the governments who were represented in 1872, as well as the members of the French section of the Commission, shall have the right to take part in this first meeting for concurring in the sanction of the new Standards.

Article 3.

The International Committee mentioned in Article 3 of the Convention, and composed as stated in Article 8 of the Regulations, is charged with receiving and comparing amongst themselves the new primary Metric Standards, in accordance with the scientific decisions of the International Commission of 1872, and of its Permanent Committee, reserving only such modifications as experience may in future suggest.

Article 4.

The French section of the International Commission of 1872 remains charged with the work entrusted to it of constructing the new primary Metric Standards, with the concurrence of the International Committee.

Article 5.

The costs of construction of the Metric Standards by the French section shall be reimbursed by the governments interested, in accordance with the estimated price of each Standard, as shall be fixed by the said section.

Article 6.

The International Committee is authorised to constitute itself immediately, and to make all the preliminary arrangements requisite for carrying the Convention into effect, without incurring any expense until after the exchange of ratifications of the said Convention.

PROJECT of CONVENTION No. 2.

Convention.

Project of convention No. 2.

Article 1.

The high parties contracting engage to found and maintain, at their common cost, an *International Metrological Bureau*, whose seat shall be in Paris or its environs.

Article 2.

The French government shall make all the necessary arrangements for the acquisition, or, if requisite, the construction of a building, specially appropriated for this establishment, under the conditions fixed by the Regulations annexed to the present Convention.

Article 3.

The International Metrological Bureau is intended for the service of the International Metric Commission which met at Paris in 1870 and 1872.

It shall be at the disposal of the Permanent Committee of this Commission for the comparison and verification of the Metric Standards, the construction of which has been entrusted to the French section, with the concurrence of the Permanent Committee.

Article 4.

When this work of comparison and verification shall have been completed, the International Metrological Bureau shall remain appropriated to the deposit of the International Metric Prototypes, their principal copies, and the auxiliary International Standards, under the conditions which shall be fixed at the final meeting of the International Commission, by the delegates of the states amongst whom the Metric Standards shall have been distributed.

Article 5.

All the costs of establishing and maintaining the International Metrological Bureau, as well as the annual expenses of the Permanent Committee, shall be defrayed by the contracting states in proportion to the amount of their actual population, and upon the basis fixed by the regulations annexed to the present Convention.

Article 6.

The costs of constructing the Metric Standards by the French section shall be reimbursed by the governments interested, in accordance with calculations to be made by the Permanent Committee.

Article 7.

By a special arrangement entered into at the same time as the present Convention, such of the high parties contracting who may deem it useful to give to the Metrological Bureau the character of a scientific and permanent international institution, will agree amongst themselves as to the conditions under which this establishment should continue its operations for this object, at their own expense, after the conclusion of the work of the International Commission.

Article 8.

In the case provided for by the preceding article, these governments who do not consider that they ought to take part in this new arrangement, will be held liable to contribute only to the

costs of preserving the International Metric Prototypes, as well as the instruments and apparatus which shall serve for the work of the Permanent Committee.

Article 9.

The present convention shall be ratified, &c.

REGULATIONS.

Article 1.

The International Metrological Bureau shall be established in a special building, protected from trepidations of the ground, and presenting all the requisite guarantees of tranquillity and stability.

Article 2.

The Permanent Committee of the International Metric Commission is charged with the acquisition and the appropriation of the building where the Bureau is located, as well as with the procuring of the instruments required for its operations.

In case the Committee should not meet with a convenient building to be obtained for this purpose, it shall cause one to be constructed under its direction, and according to the plans it shall furnish.

Article 3.

The costs of acquisition or of construction of the building, the expenses of fitting it up and of procuring instruments and apparatus, shall not exceed the sum of 400,000 francs (16,000*l.*)

Article 4.

The personnel of the International Metrological Bureau shall be appointed by the Permanent Committee.

It shall be composed of a director, and other officers deemed necessary by the Permanent Committee.

Article 5.

The annual expenses of personnel, material, and maintenance of the Bureau shall not exceed the sum of 75,000 francs (3,000*l.*)

Article 6.

The distribution of the costs of the original establishment and of the annual expenses of its maintenance shall be appropriated as follows:

Germany	-	-	-	-
Austria and Hungary	-	-	-	-
&c., &c.				

Article 7.

The Permanent Committee shall be filled up by adding the two delegates to the International Metric Commission who, at the formation of the said Committee, obtained the highest number of votes next to the members elected.

Article 8.

In the interval between the sessions of the International Metric Commission, the Permanent Committee, thus composed of fourteen members, shall remain the sole organ of the Commission, and shall alone be qualified to represent the Commission and direct the execution of its decisions.

It shall itself fill up vacancies which may arise in its number, on condition that its members all belong to different nations.

Article 9.

In the case of the eventuality provided for by Article 9 of the convention being realised, the auxiliary International Standards shall alone serve for the ulterior scientific work of the International Metrological Bureau.

Article 10.

The present regulations shall have the same force and value as the convention to which it is annexed.

13. Essential points of difference between the two Projects.

13. It may here be desirable to point out the essential points of difference between the two Projects.

Project No. 2 makes full provision for obtaining the immediate scientific objects for which the Conference was convoked by the French Government, at the request of the Permanent Committee, viz. :—

1. To afford the necessary means to the Permanent Committee for effectually making the numerous comparisons of the new Metric Standards, in accordance with the directions of the Commission in 1872.
2. For securing the future custody and preservation of the new Metric Prototypes, and their auxiliary instruments, as common international property, and their ulterior use for comparing the Metric Standards of the several governments interested.

Project No. 1, on the other hand, provides also for the following further objects, viz. :—

1. The virtual suppression of the International Metric Commission before its objects are accomplished, and the transference of its functions of ultimate control over the completed work of constructing and verifying the new Metric Standards, and of their distribution, to a general conference at a future indefinite period.
2. The transfer of the functions and duties of the Permanent Committee, elected by and responsible, as their executive agent, to the Commission, to a new International Metric Committee appointed by the Convention, and made an independent body, so far as regards the Commission,

during the whole period of the execution of the duties originally entrusted to the Permanent Committee by the Commission in 1872.

3. The discussion and promotion of the necessary measures for the *propagation* as well as the perfecting of the Metric System, declared to be the primary duty of the Conférence General, when assembled (Art. 7 of the Regulations), thus assigning to this body functions other than scientific, and authorising interference with national usages in countries where the Metric System has not been adopted.
4. The charging the new International Metric Bureau, under the direction of the Committee, with the further scientific and technical duties of comparing Metric Standards and instruments of precision, as well as geodesical instruments, for all comers; and, further, the making the acceptance of these enlarged functions of [the Bureau, and the contributing towards its expenses for these objects, a *sine quâ non* condition of any government which has taken part in the Commission having any interest in the new Metric Prototypes, although the construction of such Prototypes was the immediate and only object of the Commission.

As representative of this country, and in pursuance of my instructions, I felt it to be my duty to state in my place to the Conference my conviction that Her Majesty's Government could take no part in a convention for thus putting an end, without any reason whatever being assigned, to the International Metric Commission, to which delegates had been sent to this country; nor in a convention which authorised and directed the propagation of the Metric System, the Standards Commission having already protested against any such external interference and prapogandist action, as regards this country.

14. The second sitting of the Diplomatic Conference took place on Monday, April 12, when M. Dumas, the President of the Special Commission, read an elaborate paper drawn up by himself on the proceedings of the Commission. He then laid the two Projects before the Conference for discussion and decision.

Some of the plenipotentiaries having expressed an opinion that the whole subject had already been fully discussed by the special delegates, Duc Decazes, President of the Conference, called upon the representative of each country in alphabetical order to declare which of the two Projects, with or without reserve, met with his concurrence.

14. Second meeting of conference.
Report of M. Dumas, President of Special Commission.

Decision of
majority of
Conference in
favour of Pro-
ject No. 1.

The result is shown in the following tabular form :—

Ready to sign the Convention in terms of Project No. 1.	For Project No. 2.	Decision reserved to the respective Governments.
Germany. Argentine Confederation. Austria-Hungary. Belgium. Brazil. Spain. United States, N. America. France. Italy. Peru. Russia. Sweden & Norway. Switzerland. Venezuela.	Holland.	Denmark. Great Britain. Greece. Portugal. Turkey.

Some discussion ensued on the question of the expediency of adjourning until the representatives of those countries, who had not yet received definitive instructions from their governments, might be enabled to obtain their decision as to taking part in the Convention to be drawn up in terms of Project No. 1, which had thus been adopted by a large majority of the Plenipotentiaries. But it was pointed out that under Art. 11 of the Convention it was open to every government represented to take part at any period in the Convention, and that it was important that another meeting of the Conference should be fixed as early as possible, in order that the several Plenipotentiaries who had declared their adherence to a Convention in terms of Project No. 1 might sign a provisional instrument to this effect, and thus enable the new International Committee to constitute themselves in pursuance of Article 6 of the transitory provisions, and to make their preliminary arrangements.

The Conference was accordingly adjourned to Thursday April 15th.

15. Third
meeting of
Conference :
adhesion of
H.M. Govern-
ment to Project
No. 2.

15. At the third meeting of the Conference on April 15th, it was stated by Mr. Chisholm as representative of Great Britain, that since the last meeting he had received instructions from his government that authorized him to declare their adhesion to Project No. 2 and their willingness to take part in a Convention only on this basis. But these instructions having been given to him for his personal guidance, the right would be reserved to Her Majesty's Government to communicate diplomatically their decision as to the conclusions come to by the Conference.

Some discussion followed as to a preamble to the Convention, and as to the periods to be fixed for its ratification and taking effect, when it was resolved by the Plenipotentiaries favourable to Project No. 1 :

1. That the Project of Convention No. 1, annexed to the process-verbal of the 7th meeting of the Special Commission and laid before the Conference, be headed with the following preamble, viz.—

Additions to
Project No. 1.

II. M. &c. &c. . . . being desirous of assuring the international uniformity and perfection of the Metric System, have resolved to conclude a Convention for this object, and have named as their Plenipotentiaries, viz. :—

* * * * *

And the same having communicated their full powers, which have been found in proper and due form, have agreed to the following provisions :

* * * * *

2. That Article 14 of the Convention be Completed thus :

The present Convention shall be ratified according to the constitutional laws peculiar to each state. The ratifications shall be exchanged within six months or sooner if possible. It shall take effect from January 1st 1876.

3. That a copy of this Project of Convention, with the regulations and transitory provisions annexed, be signed provisionally (*parafé*) at the present sitting.

4. That the signature of the definitive instrument of the Convention take place on 20th May next.

The provisional instrument of the Convention was then signed by thirteen of the Plenipotentiaries who declared their adhesion to it at the second meeting of the Conference. M. Nigra deferred his signature until he received the decision of the Italian government as to the amount of expenses of the International Bureau.

Signature of
provisional
instrument of
Convention.

16. The Plenipotentiaries who had thus signed declared that Art. 6 of the transitory provisions should at once take effect, and the International Committee be authorised at once to constitute themselves and make their preliminary arrangements in pursuance of this article.

16. Constitu-
tion of New In-
ternational
Metric Com-
mittee; and
close of Con-
ference.

The Conference was then closed.

17. The new International Committee of Weights and Measures, thus appointed by Art. 8 of the Regulations annexed to the Convention, consisted of the following members :—

Dr. Förster (Germany).
Dr. J. Herr (Austria).
M. Stas (Belgium).
General Morin (France).
General Ibañez (Spain).
Prof. Hilgard (United States, N. America).
Mr. Chisholm (Great Britain).
M. Bosscha (Holland).
Dr. Wild (Russia).
General Baron Wrede (Sweden).
Prof. Broch (Norway).
M. Husny Bey (Turkey).

12 members of
the Comité
Permanent,
elected in 1872.

17. List of
New Inter-
national Metric
Committee, as
appointed by
the Convention.

Dr. Hirsch (Switzerland) } Having the next highest number of
 Prof. Govi (Italy) } votes in 1872.

All of these members, with the exception of Prof. Hilgard, were in Paris attending the Conference, of which they were members.

18. First meeting of the new Committee.

18. The first meeting of the International Committee was fixed by the members to take place on Monday, 19th April, at the French Foreign Office, for the purpose of constituting the Committee and considering the immediate steps to be taken. Invitations to attend this meeting were sent by Dr. Förster, the delegate for Germany (*Allemagne*), as the first in alphabetical order of the countries represented in the new Committee, to M. Bosscha and Mr. Chisholm; but both declined to take part in the International Committee thus appointed until they had received specific instructions from their respective governments.

It has since been publicly stated that the International Committee was constituted at this first meeting by the election of General Ibañez as President and of Dr. Hirsch as secretary.*

19. Question of H.M. Government taking part in the Convention.

19. It now remains for Her Majesty's Government to communicate to the French Government their decision as to their taking part in the Convention thus already agreed to by fourteen out of the twenty States represented at the Conference, and which will in all probability be also agreed to by the governments of Denmark, Greece, Portugal, and Turkey.

20. French text of Convention.

20. The French text of the Convention, as ultimately agreed to, will be found appended.

21. Estimate of contributions of each state towards International Bureau.

21. With respect to the amount of contributions of each State towards the expenses of the International Bureau, the following approximate estimate, in pursuance of Art. 20 of the Regulations, has been furnished:—

* Since this Report was sent to press, I have received a printed copy of the Procès-Verbaux of the five meetings of the Committee between 19 and 24 April, attended by the eleven members. Besides the election of General Ibañez and M. Hirsch, as President and Secretary, M. Govi was elected Director of the Bureau provisionally only, as under the terms of Art. 10 of the Regulations annexed to the Convention, a period of three months must elapse after notice of a new election before any definitive appointment can be made by the Committee.

The Pavillon Breteuil, at the entrance of the Park of St. Cloud, has been fixed upon by the Committee as the site of the new International Metric Institution, and the Committee have authorised their executive to make the requisite preliminary arrangements with the French Government for its acquisition.

The question of the number and description of scientific instruments and apparatus required for the Bureau was discussed by the Committee, and different members were charged with the preliminary studies of the best method of constructing the several instruments.

As the Convention was not to take full effect until 1 January 1876, it was deemed that at least a year must elapse from that date before the new building and instruments would be ready for use. The Committee therefore passed a resolution charging their executive to notify to the French section that the Committee would not be prepared to commence the comparisons and verifications of the new Metric Standards before the spring of 1877.—H. W. C., 24 July 1875.

APPROXIMATE ESTIMATE of AMOUNT of CONTRIBUTIONS.

States.	Population in Millions.	Coefficient.	Products.	Contributions.		
				Establishment.	Annual First Period.	Annual Second Period.
				434 Fr.	81 Fr.	Fr. 54 (units)
1. Germany - -	41	3	123	53,420	10,000	6,670
2. Argentine Republic - -	2	1	2	870	160	110
3. { Austria - -	20	3	60	46,900	8,790	5,860
Hungary - -	16	3	48			
4. Belgium - -	5	3	15	6,510	1,220	810
5. Brazil - -	10	3	30	13,030	2,440	1,638
6. Denmark - -	2	1	2	870	160	110
7. Spain - -	25	3	75	32,570	6,110	4,070
8. United States, North America.	42	2	84	36,480	6,840	4,560
9. France - -	38	3	114	49,510	9,280	6,190
{ United Kingdom, Great Britain and Ireland.	32	1	32	13,900	2,610	1,740
10. { Canada - -	4	2	8	3,470	650	430
Other Colonies - -	6	?	?	—	—	—
East India - -	170	?	?	—	—	—
11. Greece - -	1	3	3	1,300	240	160
12. Italy - -	27	3	81	35,180	6,600	4,400
13. { Holland - -	4	3	12	5,220	980	650
Colonies - -	24	?	?	—	—	—
14. Peru - -	3	3	9	3,910	730	490
15. Portugal - -	7	3	21	9,120	1,710	1,140
16. Russia - -	83	1	83	36,050	6,860	4,510
17. { Sweden - -	4	1	4	1,740	330	220
Norway - -	2	1	2	870	160	110
18. Switzerland - -	3	3	9	3,910	730	490
{ Turkey in Europe - -	8	3	24	44,300	8,310	5,540
Roumania & Servia - -	6	1	6			
19. { Turkey in Asia - -	13	3	39			
Egypt - -	8	3	24			
Tripoli and Tunis - -	3	3	9	870	160	110
20. Venezuela - -	2	1	2			
Total - -	611	—	921	400,000	75,070	50,000

England would thus be called upon to pay 13,900 fr. (556*l.*) towards the establishment of the International Bureau, and 2,610 fr. (104*l.*) a year for the first period until the completion of the new Metric Standards, and 1,740 fr. (70*l.* a year) afterwards.

These amounts are of course liable to be slightly altered in the event of all the states named not being contributors, and also in the event of those states who have not yet adopted the Metric system thereafter adopting it. For instance, the legislature of Sweden and Norway has since adopted the Metric system.

22. The decision upon this question thus rests with the Treasury, and as it is not probable that they will change the opinion already more than once expressed against taking part in the Permanent International Bureau to be founded under the

22. Conclusion.
Question of
Treasury decision as to Convention, and

delegate of this
country acting
on the new
Committee.

Convention, so it is probable that they will refuse to sign the Convention as one of the high parties contracting.

In such case, the next question to be determined is, whether I can act as a member of the new International Committee, under whose direction the new bureau is to be placed, and who will use it for their operations. As my expenses (say 100*l.* a year) would have to be sanctioned by the Treasury and voted by Parliament, it is evident that this is also a question to be decided by the Treasury.

I was urgently pressed by my colleagues who are members of the Committee, as well as on the part of the French Government, to act as one of the Committee in the interests of science. It was urged that I had been expressly appointed, and it was not necessary that a member of the Committee should belong to a country taking part in the Convention. After fully considering the subject, in consultation with M. Bosscha, who, as the delegate from Holland, is in a similar position with myself, we told our colleagues that it appeared to us to be impossible that we could act upon the International Committee, who were appointed under the Convention, and depended upon the new bureau for the execution of their duties, unless our governments were parties to the Convention, and contributed to the bureau; and that at any rate we must await their decision.

M. Bosscha has since informed me that his Government entirely approves what has been done by its representatives at the Conference, and he considers it impossible that his Government can take any further part in the conclusions of the Conference.

If the decision of the Board of Trade and of the Treasury should be in the same sense, I may be allowed to suggest that in conveying diplomatically to the French Government the decision of her Majesty's Government not to take part in the Convention, it may also be stated that they cannot authorize a delegate from this country to take part in the International Committee of Weights and Measures appointed under the Convention.

Standards Office,
5th May 1875.

H. W. CHISHOLM,
Warden of the Standards.

(11.)

*Text of Convention signed by the Plenipotentiaries at Paris on
20 May 1875.**

CONVENTION.

Sa Majesté l'Empereur d'Allemagne, Sa Majesté l'Empereur d'Autriche-Hongrie, Sa Majesté le Roi des Belges, Sa Majesté

* This is the actual text of the Convention, a printed copy of which was subsequently sent to me. A copy of the French *Livre Jaune*, containing all the *Documents Diplomatiques de la Conférence du Mètre*, has been laid before each House of Parliament for deposit in the Library.—H. W. C., 24 July 1875.

l'Empereur de Brésil, Son Excellence le Président de la Confédération Argentine, Sa Majesté le Roi de Danemark, Sa Majesté le Roi d'Espagne, Son Excellence le Président des États-Unis d'Amérique, Son Excellence le Président de la République Française, Sa Majesté le Roi d'Italie, Son Excellence le Président de la République du Pérou, Sa Majesté le Roi de Portugal et des Algarves, Sa Majesté l'Empereur de toutes les Russies, Sa Majesté le Roi de Suède et de Norwége, Son Excellence le Président de la Confédération Suisse, Sa Majesté l'Empereur des Ottomans, et Son Excellence le Président de la République de Vénézuéla, désirant assurer l'unification internationale et la perfectionnement du système métrique, ont résolu de conclure une Convention à cet effet, et ont nommé pour leurs plénipotentiaires, savoir :

(The names of the Plenipotentiaries, which are here given in the text of the Convention, with their full titles, &c. at length, will be found signed to the Convention.)

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté les dispositions suivantes :

Article premier.

Les Hautes Parties contractantes s'engagent à fonder et entretenir, à frais communs, un *Bureau International des Poids et Mesures*, scientifique et permanent, dont le siège est à Paris.

Art. 2.

Le Gouvernement Français prendra les dispositions nécessaires pour faciliter l'acquisition ou, s'il y a lieu, la construction d'un bâtiment spécialement affecté à cette destination, dans les conditions déterminées par le Règlement annexé à la présente Convention.

Art. 3.

Le Bureau International fonctionnera sous la direction et la surveillance exclusive d'un *Comité International des Poids et Mesures*, placé lui-même sous l'autorité d'une *Conférence Générale des Poids et Mesures* formée de délégués de tous les Gouvernements contractants.

Art. 4.

Le présidence de la Conférence Générale des Poids et Mesures est attribuée au président en exercice de l'Académie des Sciences de Paris.

Art. 5.

L'organisation du Bureau ainsi que la composition et les attributions du Comité International et de la Conférence générale des poids et mesures sont déterminées par la règlement annexé à présente Convention.

Art. 6.

Le Bureau International des Poids et Mesures est chargé :—

- 1°. De toutes les comparaisons et vérifications des nouveaux prototypes du mètre et du kilogramme.

- 2°. De la conservation des prototypes internationaux.
- 3°. Des comparaisons périodiques des étalons nationaux avec les prototypes internationaux et avec leurs témoins, ainsi que de celles des thermomètres étalons.
- 4°. De la comparaison des nouveaux prototypes avec les étalons fondamentaux des poids et mesures non métriques employés dans les différents pays et dans les sciences.
- 5°. De l'étalonnage et de la comparaison des règles géodésiques.
- 6°. De la comparaison des étalons et échelles de précision dont la vérification serait demandée, soit par des Gouvernements, soit par des sociétés savantes, soit même par des artistes et des savants.

Art. 7.

Le personnel du Bureau se composera d'un directeur, de deux adjoints et du nombre d'employés nécessaire.

A partir de l'époque où les comparaisons des nouveaux prototypes auront été effectuées et où ces prototypes auront été répartis entre les divers états, le personnel du Bureau sera réduit dans la proportion jugée convenable.

Les nominations du personnel du Bureau seront notifiées par le Comité International aux Gouvernements des Hautes Parties contractantes.

Art. 8.

Les prototypes internationaux du mètre du kilogramme, ainsi que leurs témoins, demeureront déposés dans le Bureau ; l'accès du dépôt sera uniquement réservé au Comité International.

Art. 9.

Tous les frais d'établissement et d'installation du Bureau International des Poids et Mesures, ainsi que les dépenses annuelles d'entretien et celles du Comité, seront couverts par des contributions des états contractants, établies d'après une échelle basée sur leur population actuelle.

Art. 10.

Les sommes représentant la part contributive de chacun des états contractants seront versées, au commencement de chaque année, par l'intermédiaire du Ministère des Affaires Étrangères de France, à la Caisse des dépôts et consignations à Paris, d'où elles seront retirées, au fur et à mesure des besoins, sur mandats du directeur du Bureau.

Art. 11.

Les Gouvernements qui useraient de la faculté, réservée à tout état, d'accéder à la présente Convention, seront tenus d'acquitter une contribution dont le montant sera déterminé par le Comité sur les bases établies à l'article 9 et qui sera affectée à l'amélioration du matériel scientifique du Bureau.

Art. 12.

Les Hautes Parties contractantes se réservent la faculté d'apporter d'un commun accord à la présente Convention toutes les modifications dont l'expérience démontrerait l'utilité.

Art. 13.

A l'expiration d'un terme de douze années, la présente Convention pourra être dénoncée par l'une ou l'autre des Hautes Parties contractantes.

Le Gouvernement qui userait de la faculté d'en faire cesser les effets en ce qui le concerne sera tenu de notifier son intention une année d'avance et renoncera, par ce fait, à tous droits de copropriété sur les prototypes internationaux et sur le Bureau.

Art. 14.

La présente Convention sera ratifiée suivant les lois constitutionnelles particulières à chaque état; les ratifications en seront échangées dans le délai de six mois, ou plutôt, si faire se peut. Elle sera mise à exécution à partir du 1^{er} Janvier 1876.

En foi de quoi, les Plenipotentaires respectifs l'ont signée et ont apposé le cachet de leurs armes.

Fait à Paris, le 20 May 1875.

(L.S.)	Signé	HOHENLOHE.
(L.S.)		APPONYI.
(L.S.)		BEYENS.
(L.S.)		VICOMTE D'ITAJUBA.
(L.S.)		M. BALCARCE.
(L.S.)		L. MOLTKE-HIRTFELDT.
(L.S.)		MARQUIS DE MOLINS.
(L.S.)		CARLOS IBAÑEZ.
(L.S.)		E. B. WASHBURNE.
(L.S.)		DECAZES.
(L.S.)		C. DE MEAUX.
(L.S.)		DUMAS.
(L.S.)		NIGRA.
(L.S.)		S. GALVEZ.
(L.S.)		FRANCESCO DE RIVERO.
(L.S.)		JOSE DA SILVA MENDES LEAL.
(L.S.)		OKOUNEFF.
(L.S.)		KERN.
(L.S.)		HUSNY.
(L.S.)		E. ACOSTA.

ANNEXES À LA CONVENTION DU MÈTRE.

ANNEXE 1.

Règlement.

Article premier.

Le Bureau International des Poids et Mesures sera établi dans un bâtiment spécial présentant toutes les garanties nécessaires de tranquillité et de stabilité.

Il comprendra, outre le local approprié au dépôt des prototypes, des salles pour l'installation des comparateurs et des balances, un laboratoire, une bibliothèque, une salle d'archives, des cabinets de travail pour les fonctionnaires et des logements pour le personnel de garde et de service.

Art. 2.

Le Comité International est chargé de l'acquisition et de l'appropriation de ce bâtiment, ainsi que de l'installation des services auxquels il est destiné.

Dans le cas où le Comité ne trouverait pas à acquérir un bâtiment convenable, il en sera construit un sous sa direction et sur ses plans.

Art. 3.

Le Gouvernement Français prendra, sur la demande du Comité International, les dispositions nécessaires pour faire reconnaître le Bureau comme établissement d'utilité publique.

Art. 4.

Le Comité International fera exécuter les instruments nécessaires, tels que : comparateurs pour les étalons à traits et à bouts, appareil pour les déterminations des dilatations absolues, balances pour les pesées dans l'air et dans le vide, comparateurs pour les règles géodésiques, etc.

Art. 5.

Les frais d'acquisition ou de construction du bâtiment et les dépenses d'installation et d'achat des instruments et appareils ne pourront dépasser ensemble la somme de 400,000 francs.

Art. 6.

Le budget des dépenses annuelles est évalué ainsi qu'il suit :—

A. Pour la première période de la confection et de la comparaison des nouveaux prototypes :—

	frs.
(a.) Traitement du directeur	15,000
Traitement de deux adjoints, à 6,000 francs	12,000
Traitement de quatre aides, à 3,000 francs	12,000
Appointements d'un mécanicien-concierge	3,000
Gages de deux garçons de bureau, à 1,500 francs	3,000

Total des traitements	45,000
-----------------------	--------

(b.) Indemnités pour les savants et les artistes qui, sur la demande du Comité, seraient chargés de travaux spéciaux. Entretien du bâtiment achat et réparation d'appareils, chauffage, éclairage, frais de bureau	-	-	-	24,000
(c.) Indemnité pour le secrétaire du Comité International des poids et mesures	-	-	-	6,000
Total	-	-	-	<u>75,000</u>

Le budget annuel du Bureau pourra être modifié, suivant les besoins, par le Comité International, sur la proposition du directeur, mais sans pouvoir dépasser la somme de 100,000 francs.

Toute modification que le Comité croirait devoir apporter, dans ces limites, au budget annuel fixé par le présent règlement, sera portée à la connaissance des Gouvernements contractants.

Le Comité pourra autoriser le directeur, sur sa demande, à opérer des virements d'un chapitre à l'autre du budget qui lui est alloué.

B. Pour la période postérieure à la distribution des prototypes :—

				frs.
(a.) Traitement du directeur	-	-	-	15,000
Traitement d'un adjoint	-	-	-	6,000
Appointements d'un mécanicien-concierge	-	-	-	3,000
Gages d'un garçon de bureau	-	-	-	1,000
				<u>25,000</u>
(b.) Dépenses du bureau	-	-	-	18,000
(c.) Indemnité pour le secrétaire du Comité International	-	-	-	6,000
Total	-	-	-	<u>50,000</u>

Art. 7.

La Conférence générale, mentionnée à l'article 3 de la Convention, se réunira à Paris, sur la convocation du Comité International, au moins une fois tous les six ans.

Elle a pour mission de discuter et de provoquer les mesures nécessaires pour la propagation et le perfectionnement du système métrique, ainsi que de sanctionner les nouvelles déterminations métrologiques fondamentales qui auraient été faites dans l'intervalle de ses réunions. Elle reçoit le rapport du Comité International sur les travaux accomplis, et procède, au scrutin secret, au renouvellement par moitié du Comité International.

Les votes, au sein de la Conférence générale, ont lieu par états ; chaque état a droit à une voix.

Les membres du Comité International siègent de droit dans les réunions de la Conférence ; ils peuvent être en même temps délégués de leurs Gouvernements.

Art. 8.

Le Comité International, mentionné à l'article 3 de la Convention, sera composé de quatorze membres appartenant tous à des états différents.

Il sera formé, pour la première fois, des douze membres de l'ancien Comité permanent de la Commission Internationale de 1872 et des deux délégués qui, lors de la nomination de ce Comité permanent, avaient obtenu le plus grand nombre de suffrages après les membres élus.

Lors du renouvellement, par moitié, du Comité International, les membres sortants seront d'abord ceux qui, en cas de vacance, auront été élus provisoirement dans l'intervalle entre deux sessions de la Conférence ; les autres seront désignés par le sort.

Les membres sortants seront rééligibles.

Art. 9.

Le Comité International dirige les travaux concernant la vérification des nouveaux prototypes, et en général tous les travaux métrologiques que les Hautes Parties contractantes décideront de faire exécuter en commun.

Il est chargé, en outre, de surveiller la conservation des prototypes internationaux.

Art. 10.

Le Comité International se constitue en choisissant lui-même, au scrutin secret, son président et son secrétaire. Ces nominations seront notifiées aux gouvernements des Hautes Parties contractantes.

Le président et le secrétaire du Comité et le directeur du bureau doivent appartenir à des pays différents.

Une fois constitué, le Comité ne peut procéder à de nouvelles élections ou nominations que trois mois après que tous les membres en auront été avertis par le bureau du Comité.

Art. 11.

Jusqu'à l'époque où les nouveaux prototypes seront terminés et distribués, le Comité se réunira au moins une fois par an ; après cette époque, ses réunions seront au moins bisannuelles.

Art. 12.

Les votes du Comité ont lieu à la majorité des voix ; en cas de partage, la voix du président est prépondérante. Les décisions ne sont valables que si le nombre des membres présents égale au moins la moitié plus un des membres qui composent le Comité.

Sous réserve de cette condition, les membres absents ont le droit de déléguer leur votes aux membres présents, qui devront justifier de cette délégation. Il en est de même pour les nominations au scrutin secret.

Art. 13.

Dans l'intervalle d'une session à l'autre, le Comité a le droit de délibérer par correspondance.

Dans ce cas, pour que la décision soit valable, il faut que tous les membres du Comité aient été appelés à émettre leur avis.

Art. 14.

Le Comité International des Poids et Mesures remplit provisoirement les vacances qui pourraient se produire dans son sein ; ces élections se font par correspondance, chacun des membres étant appelé à y prendre part.

Art. 15.

Le Comité International élaborera un règlement détaillé pour l'organisation et les travaux du bureaux, et il fixera les taxes à payer pour les travaux extraordinaires prévus à l'article 6 de la Convention.

Ces taxes seront affectées au perfectionnement du matériel scientifique du bureau.

Art. 16.

Toutes les communications du Comité International avec les Gouvernements des Hautes Parties contractantes auront lieu par l'intermédiaire de leurs représentants diplomatiques à Paris.

Pour toutes les affaires dont la solution appartiendra à une administration Française, le Comité aura recours au Ministère des Affaires Étrangères de France.

Art. 17.

Le directeur du Bureau ainsi que les adjoints sont nommés au scrutin secret par le Comité International.

Les employés sont nommés par le directeur.

Le directeur a voix délibérative au sein du Comité.

Art. 18.

Le directeur du Bureau n'aura accès au lieu de dépôt des prototypes internationaux du mètre et du kilogramme qu'en vertu d'une résolution du Comité et en présence de deux de ses membres.

Le lieu de dépôt des prototypes ne pourra s'ouvrir qu'au moyen de trois clefs, dont une sera en la possession du directeur des Archives de France, la seconde dans celle du président du Comité, et la troisième dans celle du directeur du Bureau.

Les étalons de la catégorie des prototypes nationaux serviront seuls aux travaux ordinaires de comparaisons du Bureau.

Art. 19.

Le directeur du Bureau adressera, chaque année, au Comité : 1° un rapport financier sur les comptes de l'exercice précédent, dont il lui sera, après vérification, donné décharge ; 2° un rapport sur l'état du matériel ; 3° un rapport général sur les travaux accomplis dans le cours de l'année écoulée.

Le Comité International adressera, de son côté, à tous les Gouvernements des Hautes Parties contractantes un rapport annuel sur l'ensemble de ses opérations scientifiques, techniques et administratives et de celles du Bureau.

Le président du Comité rendra compte à la Conférence générale des travaux accomplis depuis l'époque de sa dernière session.

Les rapports et publications du Comité et du Bureau seront rédigés en langue Française. Ils seront imprimés et communiqués aux Gouvernements des Hautes Parties contractantes.

Art. 20.

L'échelle des contributions, dont il est question à l'article 9 de la Convention, sera établie ainsi qu'il suit :

Le chiffre de la population exprimé en millions, sera multiplié

Par le coefficient 3 pour les États dans lesquels le système métrique est obligatoire ;

Par le coefficient 2 pour ceux dans lesquels il n'est que facultatif ;

Par le coefficient 1 pour les autres États.

La sommes des produits ainsi obtenus fournira le nombre d'unités par lequel la dépense totale devra être divisée. Le quotient donnera le montant de l'unité de dépense.

Art 21.

Les frais de confection des prototypes internationaux, ainsi que des étalons et témoins destinés à les accompagner, seront supportés par les Hautes Parties contractantes d'après l'échelle établie à l'article précédent.

Les frais de comparaison et de vérification des étalons demandés par des États qui ne participeraient pas à la présente Convention, seront réglés par le Comité conformément aux taxes fixées en vertu de l'article 15 du Règlement.

Art. 22.

Le présent Règlement aura même force et valeur que la Convention à laquelle il est annexé.

ANNEXE No. 2.

Dispositions Transitoires.

Article Premier.

Tous les États qui étaient représentés à la Commission Internationale du mètre réunie à Paris en 1872, qu'ils soient ou non parties contractantes à la présente Convention, recevront les prototypes qu'ils auront commandés, et qui leur seront livrés dans toutes les conditions de garantie déterminés par ladite Commission Internationale.

Art. 2.

La première réunion de la Conférence générale des poids et mesures mentionnée à l'article 3 de la Convention, aura, notam-

ment, pour objet de sanctionner ces nouveaux prototypes et de les répartir entre les États qui en ont fait la demande.

En conséquence, les délégués de tous les Gouvernements qui étaient représentés à la Commission Internationale de 1872, ainsi que les membres de la section Française, feront de droit partie de cette première réunion pour concourir à la sanction des prototypes.

Art 3.

Le Comité Internationale mentionné à l'article 3 de la Convention, et composé comme il est dit à l'article 8 du Règlement, est chargé de recevoir et de comparer entre eux les nouveaux prototypes, d'après les décisions scientifiques de la Commission Internationale de 1872 et de son Comité permanent, sous réserve des modifications que l'expérience pourrait suggérer dans l'avenir.

Art. 4.

La section Français de la Commission Internationale de 1872 reste chargée des travaux qui lui ont été confiés pour la construction des nouveaux prototypes, avec le concours du Comité International.

Art. 5.

Les frais de fabrication des étalons métriques construits par la section Française seront remboursés par les gouvernements intéressés, d'après le prix de revient par unité qui sera déterminé par ladite section.

Art. 6.

Le Comité International est autorisé à se constituer immédiatement et à faire toutes les études préparatoires nécessaires pour la mise à exécution de la Convention, sans engager aucune dépense avant l'échange des ratifications de ladite Convention.

(Both Annexe No. 1 and No. 2 bear also the signatures of the Plenipotentiaries.)

(12.)

TREASURY to BOARD OF TRADE.

SIR, Treasury Chambers, May 21st, 1875.

HAVING laid before the Lords Commissioners of Her Majesty's Treasury Mr. Trevor's letter of the 14th instant, enclosing a report from the Warden of the Standards requesting instructions as to the course to be pursued with respect to the proceedings of the International Metric Conference, recently assembled at Paris, I am commanded to acquaint you for the information of the Lords of the Committee of Council for Trade, that their Lordships are of opinion that Her Majesty's Government should decline to take part in the Convention, a copy of which accompanied Mr. Trevor's letter, and that the Warden of the Standards should be directed

to decline being appointed a member of the International Committee of Weights and Measures for the direction of the new International Bureau.

The inclosures to Mr. Trevor's letter are returned herewith.

I am, &c.

WILLIAM LAW.

The Secretary, Board of Trade.

LONDON:

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For Her Majesty's Stationery Office.

PERU. No. 1 (1875).

CORRESPONDENCE

RESPECTING THE

IMPRISONMENT OF BRITISH SUBJECTS

IN

PERU.

*Presented to the House of Commons by Command of Her Majesty, in pursuance of their
Address dated July 19, 1875.*

LONDON:

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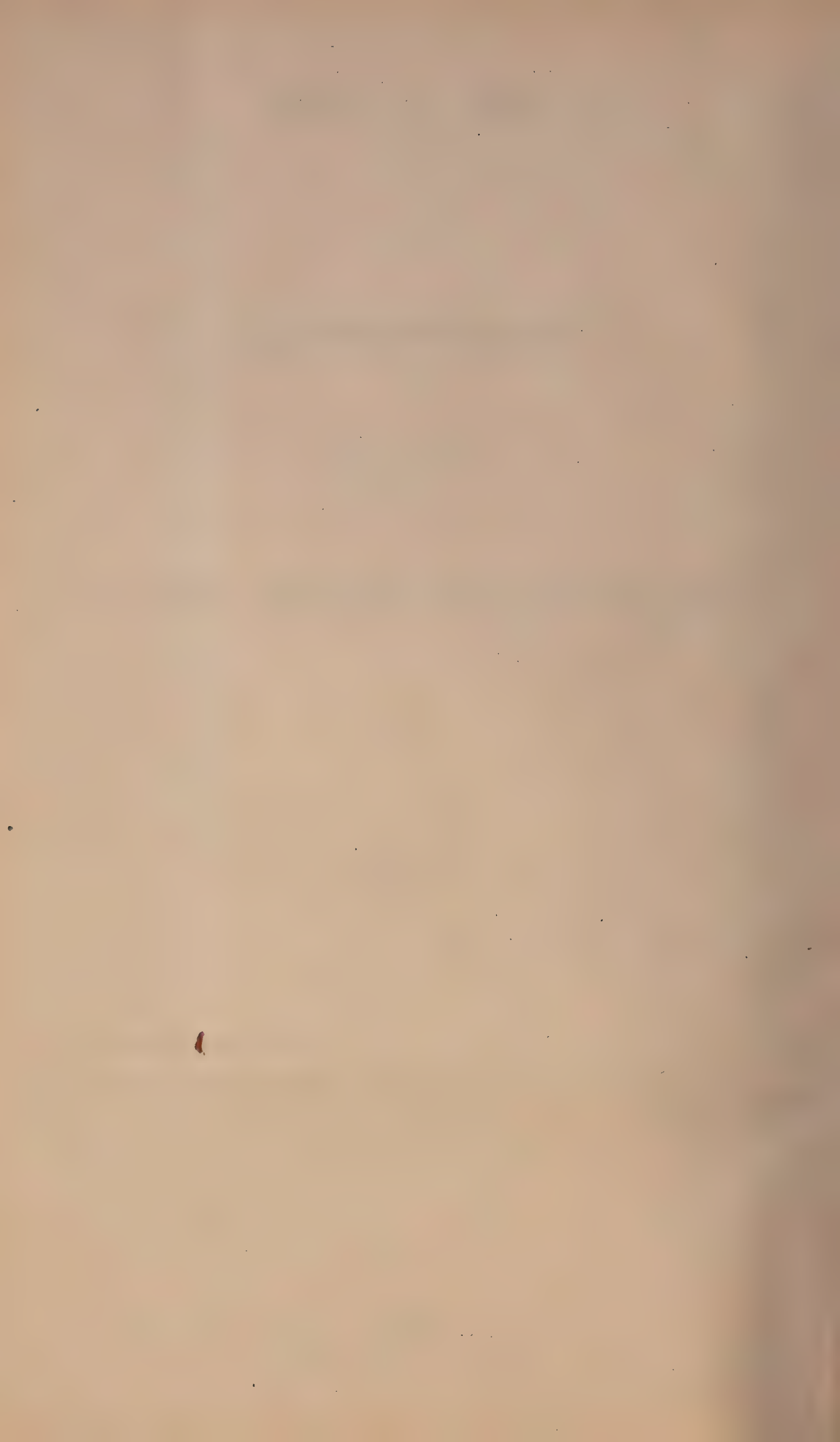


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RETURN to an Address of the Honourable the House of Commons, dated July 19, 1875;
for—

“Copy or Extracts of Correspondence and Despatches relative to the Imprisonment of British Subjects since the year 1872, inclusive, addressed to and received from the Representatives of Her Majesty in that country.”

No. 1.

Mr. Jerningham to the Earl of Derby.—(Received May 29.)

(Extract.)

Lima, April 27, 1874.

TWO British subjects, named Bell and Sterling, youths of about sixteen and twenty years old, have been incarcerated at a place on the Oroya and Lima Railroad since July last, on suspicion, I believe, of having something to do with the drowning of a “native,” who himself had been arrested (and escaped by jumping into the river), for having stabbed the overseer of the camp of workmen on the line.

I have not been able to ascertain exactly in what way these men could have been privy to the drowning of the “native;” but they were arrested by the Commissary, and have been kept in prison a very long time. I have written continually to the Minister for Foreign Affairs to have this case proceeded with and themselves admitted to bail.

At Christmas they were let out for a fortnight or so, bailed, I understand; but on their return to their work again, they were shut up a second time in a fearfully foul prison, which appears to have been an old mine.

The other day only I had a serious conversation with Señor Sanchez, the present Minister for Foreign Affairs and Minister of Justice, on the length of the imprisonment of these men, and on the conduct of the Judge of Huarchiri, who must have been, according to accounts, remiss in not concluding the trial before now; and I requested, energetically, that these youths should be admitted again to bail. His Excellency gave me to understand that he would immediately take steps in the matter, and would write directly to the President of the Supreme Court of Justice.

By the answer which I received this morning from the Minister of Foreign Affairs and Justice, copy of whose note I have now the honour to forward to your Lordship, his Excellency says that the trial of Bell and Sterling is on the point of being concluded; but that on account of the nature of the act of which they stand accused, the laws of the country do not allow them to be admitted to be bailed, and that if they were let out before, at Christmas, the legal regulations had been infringed.

I think, if your Lordship would take the matter in hand, speak to Minister Galvez and animadvert upon the length of time these youths have been imprisoned, in what is said to be a foul and wretched place, and not giving them sufficient food, which the laws of Peru allow to those incarcerated, it would be very opportune and just, and prove of great service.

The Constitution of Peru says, I think, “Prisons are places, in this Republic, of detention, not of punishment;” but very often they are so bad that they are just the contrary.

Inclosure in No. 1.

Señor Sanchez to Mr. Jerningham.

(Translation.)

Lima, April 24, 1874.

IT is a pleasure to me to impart to your Excellency the information given by the Judge of Huarchiri, in connection with the case of the British subjects, Bell and

Sterling, which is under full consideration, and nothing more is wanting in the conclusion of the case but a summary declaration of some of the witnesses to be confronted with the accused, and in their defence the proofs to be taken in their favour.

From the same information of the Judge it appears that the said individuals cannot be liberated under bail for the crime for which they are accused; it is expressly prohibited by law. In this, therefore, when the judgment has arrived in this capital, I have no doubt they will be free from prison.

With regard to the prison in which they are confined, it serves for all classes who are detained, without distinction, and that it is, without doubt, not a place of ease and comfort; but that which is represented of it is highly exaggerated.

Hoping very soon to communicate to your Excellency the final result of the case, I have, &c.

(Signed)

JOSE EUSEBIO SANCHEZ.

No. 2.

Mr. Charley, M.P., to Mr. Bourke.—(Received June 16.)

(Extract.)

June 15, 1874.

I BEG to forward you the accompanying correspondence, with the expression of an earnest hope that the Foreign Office may intervene in time to save the two lads—British subjects, imprisoned without any charge being made against them, in a loathsome dungeon—from being starved to death. I knew Colonel Harris, who was British Commissioner at the Peruvian Exhibition, and is well known in Peru. I believe he has communicated on the subject of the correspondence with the Earl of Derby.

Inclosure 1 in No. 2.

Messrs. Bell and Sterling to Mr. Jerningham.

Respected Sir,

In the Prison of Matuacana, February 17, 1874.

WE again beg most respectfully to bring our unfortunate position before you.

We are now confined in a loathsome dungeon, formerly the entrance to an old mine; it is 28 feet long, by 7 in width. We have not been out of this horrid hole since the 4th instant.

We have now in this small place twenty-three prisoners, and have had thirty-three, scarcely room to lie down, and no ventilation; therefore you may judge of the fearful condition we are in. We are all full of vermin, not having a change of linen, and half-starved at times. Two reals a-day are given us; sometimes for two days we have nothing to eat.

We were arrested on the 8th of July, 1873, and have had no trial or examination.

We are not aware of committing any wrong, neither have we committed any crime, and we know not what we are charged with. We are utterly friendless, and we pray you to obtain for us a trial or our liberation, and, in the meantime, supply us with the means of procuring food. Unless we are speedily taken from this fearful place, death will remove us. We are British subjects, and claim your protection. For God's sake don't allow us to be starved to death, being innocent of any crime.

We remain, &c.

(Signed)

JAMES BELL.

JOSEPH R. STERLING.

Inclosure 2 in No. 2.

Colonel Harris to Mr. Jerningham.

(Extract.)

Isla San Lorenzo, Callao, February 18, 1874.

I BEG herewith to inclose you a letter from James Bell and Joseph R. Sterling, two British subjects.

I indorse all they say respecting their place of confinement; a more horrid, stinking, or foul place cannot be found: it is a disgrace to humanity to confine human

beings in such a foul den. I could not approach it without vomiting; the stench is intolerable; and in this place are confined two English boys, 18 years of age; they allege their innocence of any crime, and from inquiries I have made, I believe them. Is it right that two British subjects should be incarcerated for months without trial, herding with alleged murderers and thieves?

Inclosure 3 in No. 2.

Mr. Jerningham to Colonel Harris.

(Extract.)

Lima, February 20, 1874.

I RECEIVED your letter and inclosures relating to the men Stirling and Bell.

In November last I wrote to this Government a long note, inclosing representations from Bell. I sent in the case to the Peruvian Government, and it was put into the hands of the Minister of Justice, who took steps accordingly, I believe.

You may have heard that I caused Mr. Cocks, since dead, to go up to Cuzco, &c., and take depositions and make inquiries with respect to the business of which I suppose they are accused, viz., in being mixed up in a row, during which a man named José Maria was drowned. After some little time, the black (Stirling), was bailed by the Judge himself, so he told me, and, subsequently, one of Mr. Meiggs' people stood bail for Bell. When they were out, they both came to Chorrillos one day, I suppose out of gratitude to see me, when I told them that I did not think they would be imprisoned again, but would have to present themselves when the Judge had to pronounce sentence, one way or the other. They talked of employing a lawyer; I advised them not, until there was need for it, or something to that effect.

This happened at or about Christmas, or later, so their new incarceration must have been owing to something I am not aware of; for it is not likely persons admitted to bail should be imprisoned again to await their trial for the same offence; I shall, however, send in copies of their two letters to this Government, and as to your one to me I shall, perhaps, show that also to the Minister for Foreign Affairs, if not the President.

Inclosure 4 in No. 2.

Colonel Harris to Mr. Jerningham.

(Extract.)

Isle San Lorenzo, Callao, February 28, 1874.

I AM favoured with your letter of the 20th February, in relation to the two boys, Bell and Sterling, for which I am obliged.

The facts remain the same; the boys are still in the foul den of a prison, contrary to humanity, and to the laws of Peru.

As you are not aware of their second arrest, it was as follows:—

They were liberated on the bail of Mr. Penny on the 10th of January. On the 17th of January, the Judge of Matucana met Mr. Penny, and desired him to send the two boys, saying he wanted their depositions. He sent them. On their arrival, without any explanation, he ordered them again to prison. A more scandalous outrage against liberty cannot be conceived.

Trusting Bell and Sterling will be soon tried, or liberated, and their characters cleared by a declaration of their innocence of any crime against the laws of Peru, which I (so long as I remain in the country) will always uphold and obey.

No. 3.

Lord Tenterden to Mr. Charley, M.P.

Sir,

Foreign Office, June 23, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 15th instant, respecting the case of two British subjects, James Bell and Joseph

Sterling, imprisoned at Matucana, in Peru; and I am to inform you, in reply, that a despatch was received from Mr. Jerningham, Her Majesty's Minister Resident, at Lima, on the 29th ultimo, reporting that these persons had been imprisoned on a charge of being concerned in the drowning of a native, and had been liberated on bail for a short time, but subsequently re-arrested, and were still in confinement at the date of this despatch, the 27th of April.

Mr. Jerningham stated that he had made repeated representations to the Peruvian Government, and endeavoured to procure their release again on bail, but this had been refused, on the ground that the offence with which they were charged was not one which admitted of bail being taken, and that their release on bail at all has been illegal. The Peruvian Government, however, told him that the trial was on the point of being concluded. A copy of the note from the Minister of foreign Affairs and Justice is inclosed.

Instructions have been sent to Mr. Jerningham by telegraph if the trial of Bell and Sterling is not over, to press strongly for the immediate conclusion of the proceedings, and for them to be liberated on bail, or at all events removed to some place where they may be treated with humanity, and also to furnish a detailed report of the whole matter, that Her Majesty's Government may judge whether any further steps should be taken in it.

I am to add that Lord Derby would be obliged by your conveying to Colonel Harris his thanks for having called attention to the case and for his humane interference on behalf of the prisoners.

I have, &c.
(Signed) TENTERDEN.

No. 4.

The Earl of Derby to Mr. Jerningham.

(Telegraphic.)

Foreign Office, June 23, 1874, 4.45 P.M.

WITH reference to your despatch of the 27th of April, if the trial of Bell and Sterling is not over, press strongly for the immediate conclusion of the proceedings, and for them to be liberated on bail, or at all events removed to some place where they may be treated with humanity.

Furnish a detailed report of the whole matter, that Her Majesty's Government may judge what further steps may be taken in it.

No. 5.

The Earl of Derby to Mr. Jerningham.

(Extract.)

Foreign Office, June 23, 1874.

WITH reference to your despatch of the 27th of April, I transmit to you herewith copies of a letter and its inclosures, which I have received from Mr. Charley, M.P., respecting the imprisonment of Bell and Sterling, together with a copy of the reply which I have returned to it.*

I have instructed you by telegraph to press strongly on the Peruvian Government for the immediate conclusion of the proceedings in the case, should the trial not yet have been held, and for the liberation of the accused on bail, or for their removal to some place of detention, where they may be treated with humanity.

I have also to instruct you to furnish me with a detailed account of the whole matter, in order that Her Majesty's Government may judge whether it is a case in which compensation may properly be demanded.

Mr. Nugent to the Earl of Derby.—(Received July 28.)

My Lord,

Lima, June 27, 1874.

MR. JERNINGHAM, in his despatch of the 27th of April, called the attention of the Foreign Office to the case of John Bell and Joseph Richard Sterling, two boys, British subjects, who had been for many months imprisoned in a foul dungeon in the town of Machucana, some seventy-two miles distant from this place.

The boys were still in prison when I arrived, and as soon as possible after Mr. Jerningham's departure, and I had made myself acquainted with the circumstances, I sought an interview with the Peruvian Minister for Foreign Affairs, pointed out to him the excessive privations which the boys had suffered, confined in a filthy dungeon for many months on the merest suspicion, and the criminal neglect of the Judge of Machucana in the matter.

The Peruvian Minister at once, and in my presence, addressed a note to the Minister of Justice, urging him to investigate into and take immediate action in the matter.

As the town of Machucana is easily accessible by the Oroya roadway, now in course of construction, I determined personally to look into the matter as the condition of the prisoners was described to me as so painful and disgusting as almost to beggar belief. I regret to say that no language is sufficient to convey to your Lordship an adequate idea of the filthy and pestilential hole. It is impossible to conceive that any men with the slightest spark of humanity would have condemned their fellow men to an imprisonment almost equalling in horrors the accursed Black Hole of Calcutta.

I deemed it my duty to bring the result of my personal inspection at once to the notice of the Peruvian Government, and I have now the honour to transmit to your Lordship a copy of my despatch to the Peruvian Minister for Foreign Affairs.

When I arrived in Machucana, the boys, as your Lordship will observe in my despatch to the Minister, were no longer there, their health, after wonderful endurance, having broken down under the confinement. They are now in the prison hospital in this city, and I am assured by Dr. Henry, the British chaplain, who has visited them, that they are fairly treated and rapidly regaining health.

Your Lordship will be glad to hear that my remonstrances have already produced great effect. By a Decree of the Minister of Justice, dated the 21st instant, the unworthy judge has been removed from his post, and the Government have ordered a criminal suit to be at once commenced against him. All the prisoners I saw in the pestilential hole have been removed to the prison in this city to wait their trials, and the Peruvian Minister for Foreign Affairs informed me a day or two ago that the Government have ordered the excavation to be closed with solid masonry that it may not be in the power of any authority ever to misuse it again.

I have, &c.

(Signed) G. H. NUGENT.

Inclosure in No. 6.

Mr. Nugent to the Peruvian Minister for Foreign Affairs.

Lima, June 20, 1874.

THE Undersigned has the honour to inform his Excellency the Peruvian Minister for Foreign Affairs that in the discharge of his duties he took occasion to visit the prison in Machucana in which John Bell and Joseph Richard Sterling were confined.

Neither the Sub-Prefect nor the Juez de Primera Instancia were in Machucana when the Undersigned visited that town, but a party, who said he was the Secretary of the Sub-Prefect, showed the Undersigned where the prison was. The Undersigned was assured that the Judge was rarely to be found at his post. The boys he learnt from the prisoners had been removed to the prison hospital in Lima, their health having given way under the excessive hardship of their confinement.

When the Undersigned visited the prison, or approached it as near as he could, as the foul emanations from it were sickening, there were thirty-one prisoners confined in it. The prison is an excavation in the solid rock with an iron-grated door, through which is the only ventilation. It is about twenty-one feet long, seven feet wide, and

ten feet high. At the end of it there is a small excavation in the rock, in which there is a tub which serves for the necessities of the prisoners, and is only emptied once a-day. Your Excellency can imagine what the effluvia is. In this pestilential dungeon the two English boys, John Bell and Joseph Richard Sterling, were confined for some eleven months. There is no bed or covering of any kind, the prisoners finding what rest they can on the stone floor, and that only by turns, as the limited space will not allow any such number to lie down at a time. No provision is taken to supply them regularly with food. Many depend on what money they have brought into prison, others on their friends and families outside, and those like the English boys, who have no friends or families, on little else than the charity and the refuse of their fellow-prisoners. I am assured that Bell only received eight reals from the authorities for his maintenance for forty-three days.

No language can adequately describe or convey to your Excellency such a disgraceful state of things.

The Undersigned feels assured that neither his Excellency nor his Excellency the President can be aware of the dreadful inhumanity consented to by the Authorities of Machucana. He feels assured that the humanitarian spirit for which his Excellency the President is so eminently distinguished, would, had it been brought before his Excellency as it is now truthfully presented by the Undersigned, have at once and for ever put an end to inhumanity which is a stigma to the civilization and the benevolence of the Peruvian nation.

The Undersigned would earnestly pray his Excellency to bring the matter at once before the President, that such a scandal and outrage on humanity may disappear.

The Undersigned understands from Dr. Henry, who has visited the boys in their present prison, that their health is much improved since their removal from the prison in Machucana, and trusts that through the exertions of his Excellency some final decision may be shortly obtained from the judicial authorities.

The Undersigned, &c.

(Signed)

G. H. NUGENT.

No. 7.

The Earl of Derby to Mr. Nugent.

Sir,

Foreign Office, July 31, 1874.

I HAVE to state to you that I entirely approve the steps you have taken, as reported in your despatch of the 27th ultimo, on behalf of the two English boys, Bell and Sterling, who were imprisoned at Machucana.

Her Majesty's Government have learnt with satisfaction that in consequence of your representations measures have been adopted by the Peruvian Government to punish the judge responsible for the ill-treatment to which these boys were subjected, and to prevent any further use being made of the dungeon in which they were confined.

I am, &c.

(Signed)

DERBY.

No. 8.

Mr. Nugent to the Earl of Derby.—(Received August 28.)

My Lord,

Lima, July 27, 1874.

I HAVE to call your Lordship's attention to the case of Laurence Higginson, a British subject, who was taken out of the steamer "Santiago" on the 18th instant, when at anchor in the Bay of Callao, under an order from the Captain of the Port, and was thrown into prison.

The action of the Captain of the Port appears to me so arbitrary that I will briefly recapitulate the facts of the case as they were presented to me, and by me laid before the Government.

On the 15th of June, when the steam-ship "Santiago" was at anchor in the Bay of Panama, a deck trader came on board with articles for sale, among these were two revolvers, which were passed from hand to hand by the crew, all being ignorant that any of the chambers were loaded, when in the hands of Lawrence Higginson he unfortunately pulled the trigger, the shot went off, and a lamp trimmer, a Chilean, was

unfortunately wounded in the back. A doctor was immediately sent for, and he considered it necessary that the man should be sent to hospital for treatment. This was done, and the steam-ship "Santiago" at her appointed time sailed for Callao, leaving the wounded man behind. The case was inquired into by the Chilean Consul in Panama, who satisfied himself that the misfortune was purely accidental. The man's hospital expenses and wages appear to have been paid by the Pacific Steam Navigation Company. On the "Santiago's" return to Panama early in July the man was reported as fit to return to his ship, he was accordingly taken on board on the 7th of July, and on arrival in Callao on the 17th instant he brought an action against Laurence Higginson for an attempt to murder him. Without any inquiry into the matter, Laurence Higginson was, as I have stated, taken out of his ship and imprisoned. Report being made to Her Majesty's Acting Consul at Callao, he sought information from the Captain of the Port, was referred by him to the Intendant, and by this authority again referred to the Captain of the Port. Failing to obtain information from either, he protested against the illegality of the proceedings, and referred the matter to me.

The whole facts of the case were clearly set forth in my despatch of the 20th to the Minister for Foreign Affairs, of which I have the honour to transmit a copy, and it does appear to me that they should have been sufficient to obtain the immediate release of the prisoner. However, it was not so, the wrong still continued, and it was not until the 24th that I succeeded in having him set at liberty. I have the honour to transmit under this cover translation of the Minister's despatch in reply to mine of the 20th, and also copy of my reply, in which I explain to him what I consider the action of the port authorities should have been, and which I trust will have your Lordship's approval.

It seems to me, my Lord, most important that some immediate action should be taken in the interest of all commercial interests to come to an understanding with the Peruvian Government how far, and under what conditions, they can be allowed to claim jurisdiction over acts committed on board British vessels, to remedy what I must term, in the present instance, an abuse of power—an abuse which has been the cause of a grievous injustice to a British subject.

The whole action of the authorities in Callao appears to have been arbitrary in the extreme. If information had been sought, either from Her Majesty's Consul, from the Pacific Steam Navigation Company, or from the commander of the "Santiago," the whole matter could have been made clear in half-an-hour, and the man not subjected to unjust imprisonment, and it must be borne in mind that simple imprisonment in Peru is no light punishment. Even the best of prisons in this country fall far below anything you can conceive in England. It must be seen to realize the amount of degradation put upon a man. Higginson was imprisoned in the common felons' ward together with a number of the lowest kind of malefactors, he had no bed or bedding allowed him, no privacy, and his prison diet was of the lowest description. Some remedy should be put to this. I think it very desirable that your Lordship should instruct me to inform the Peruvian Government that Her Majesty's Government cannot consent that any of Her Majesty's subjects should be taken out of British vessels and imprisoned on a simple accusation and without any reference to Her Majesty's Consular officers, a report should be made to the Consul of the charge preferred, he then, in conjunction with the Captain of the Port, should inquire into the matter, and they should decide whether the complaint is of so serious a nature as to justify imprisonment and to being brought before the Law Courts of the country, and it should distinctly be made clear that some department of the prison should be set apart when any of Her Majesty's subjects are ordered on trial for their accommodation.

My despatches on this subject became public before any decision was arrived at, and furnished subject of bitter comment for all the newspapers of this city. I feel, however, my Lord, that in the discharge of my duties I could not do otherwise than remonstrate strongly against the proceedings; as long as I have the honour to remain in charge of this Legation I will never willingly consent to any abuse of power as far as Her Majesty's subjects are concerned.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 1 in No. 8.

*Mr. Nugent to Señor Aguero.**Lima, July 20, 1874.*

Excellency,

I REGRET that it is again my painful duty to call your Excellency's attention to another case of what appear to be a flagrant attack on the part of the authorities of Callao against the liberty of Lawrence Higginson, a British subject, for some time butcher on board the steam-ship "Santiago."

Higginson was taken out of the "Santiago" on the 18th instant, under an order from the Captain of the Port, which is as follows:—

The Captain of the steamer "Santiago" will at once send in the official boat of this Captaincy the butcher of his ship.

(Signed) "HESCLIE CABREZES.

"Callao, June 18, 1874."

He was sent on shore as required, and immediately cast into prison. The case being brought to the cognizance of Her Majesty Consul, he at once went to the Captain of the Port's Office to inquire into the circumstances which led to the imprisonment; he was informed by the Captain of the Port that the man had been taken out of the ship by order of the head of the Police, and on calling on the head of the Police this authority stated that the man had been taken out by order of the Captain of the Port.

Failing to obtain from either authority any information, the Consul addressed an official note to the Captain of the Port, and brought the matter before me.

The facts of the case, as they appear from declarations taken on oath on board the steam-ship "Santiago," are as follows:—

On the 15th of June last past, the "Santiago" then at anchor in the Bay of Panama, a deck-trader came on board with articles for sale, amongst these were two revolvers, which were examined by several of the crew and passed from hand to hand, all being ignorant that any of the barrels were loaded; whilst in the hands of Lawrence Higginson the pistol accidentally went off, and the ball unfortunately struck a Chilian, of the name of Santana, in the back. A doctor was immediately sent for, and, the wound being considered sufficiently serious to require treatment on shore, he was sent to the hospital, all his expenses being paid by the Company, as also his wages; and on the "Santiago's" last voyage to Panama, the man was reported sufficiently well to join his ship, and was again received on board. On arrival at Callao, he appears to have brought a charge against Lawrence Higginson of an attempt to murder him.

Can anything in the face of it be more improbable or less worthy of credit? The Pacific Steam Navigation Company would at once in such a case have handed over the delinquent to the authorities in Panama, and they certainly, even under the remotest suspicions, would never have consented to take the two men in the same ship.

The authorities at Panama appear to have been perfectly satisfied that the accident took place as stated upon oath in the declarations.

Yet a misfortune which occurred in the Bay of Panama on the 15th of June is considered by the authorities of another Republic sufficient to warrant them in taking a British subject out of a British vessel.

I may be pardoned in asking your Excellency where to and to how far do the Captain of the Port and Intendant of Callao, as both appear to decline to take the onus of the proceedings, suppose their jurisdiction to extend?

Their action is so unwarrantable, and, if persisted in, must lead to such serious results, that I must beg your Excellency to use the whole weight of your Government to insist upon the prisoner being immediately set at liberty and returned to his ship.

I have, &c.

(Signed) G. H. NUGENT.

Inclosure 2 in No. 8.

Señor Aguero to Mr. Nugent.

(Translation.)

Lima, July 21, 1874.

AS soon as I received your note of yesterday's date, having reference to the imprisonment of Higginson, butcher of the steam-ship "Santiago," I sent the necessary

instructions to the Prefect and Captain of the Port in Callao that he should be placed at liberty, since judicial action had not been taken, besides without its having been made known by whom the order of imprisonment had been authorized.

I have, &c.
(Signed) J. DE LA RIVA AGUERO.

Inclosure 3 in No. 8.

Mr. Nugent to Señor Aguero.

Excellency,

Lima, July 23, 1874.

I HAVE the honour to acknowledge your Excellency's despatch of the 21st instant, respecting the steps your Excellency was good enough to take towards forwarding the release of Laurence Higginson from prison.

The case I found, when in Callao this morning, had been passed to the judicial authorities; but as, in addition to the statements I furnished to your Excellency in my despatch of the 20th on this matter, I learnt that the Chilian Consul at Panama had also investigated into it, and as all these documents were to be laid before the Judge, I entertain I trust a well-grounded belief that Higginson is already at large.

Excellency, it is to be regretted that the hasty and injudicious action of the authorities at Callao should have given rise to the false imprisonment of a British subject, and his detention for five days in the common felons' cell in the Callao prison. This must be a matter most displeasing to Her Majesty's Government.

If I might venture to offer an opinion to prevent the occurrence of similar cases as the one I now have to lament, it is that the Peruvian port authorities should be instructed to inquire into the justice of the complaints brought before them of crimes or accidents committed on board British vessels through the proper channel, Her Majesty's Consul at Callao, who is fully instructed and commanded by Her Majesty's Government to administer justice in all such cases, and also, I feel assured, will be most anxious and desirous to give full information to the Peruvian authorities.

I have, &c.
(Signed) G. H. NUGENT.

No. 9.

Mr. Nugent to the Earl of Derby.—(Received August 28.)

My Lord,

Lima, July 27, 1874.

I HAVE the honour to acknowledge your Lordship's telegram of the 23rd of June,* respecting the case of Bell and Sterling, and which was received by me on the 20th instant.

I did not reply to it by telegram, as my despatch of the 27th of June would have been received by your Lordship before my telegram could possibly reach.

Your Lordship will have gathered from that despatch, that as soon as possible after taking charge of the Legation, I had given this case my professional attention, and that my efforts had been so far successful as to induce the removal of all the prisoners in Machucana from their pestilential dungeon, to a more wholesome prison in this city.

I may add here, that the Government have carried out their promise of closing up the excavation.

On receipt of your Lordship's telegram, I immediately sought an interview with the Minister for Foreign Affairs, showed him your Lordship's telegram, as I hoped by so doing to urge him to more stringent action, and asked for some definite information which I might communicate to your Lordship by the French mail leaving on the 21st.

The Minister hoped to be able to do this, but that hope was not realized. I kept a messenger waiting at the Foreign Office till late in the evening, as I was most anxious to receive some information.

Unable to obtain any information, I immediately addressed a despatch to the Minister, of which I have the honour to transmit copy under this cover, as also translation of his Excellency's reply; and I regret to say that up to this date I have not received any further communication from the Minister in the matter. I have since had

* No. 4.

an interview with him, but it did not lead to any result. In fact, last Wednesday evening I was at the President's levée, when the Minister sought me, and we had a very warm discussion on this and other cases, in which I have deemed it my duty to call the serious attention of the Government; and I could not disguise from the Minister that the evident maladministration of justice must be a matter of serious concern to Her Majesty's Government.

From to-day the national holidays commence; and there will be no chance of my being able to induce action in this matter till early in August, when I purpose sending in a strong remonstrance; and I shall demand that I myself, or my deputy, should be present when the cause is again brought for trial.

I believe there is no doubt, as stated in my despatch to the Minister for Foreign Affairs, that the Judge Caceres had pronounced sentence on the boys on the date therein stated; and I can conceive nothing more infamous than such sentence on his part. I am informed that a new Judge has been appointed to "understand" in the cause, without reference to Judge Caceres' sentence.

The Minister, in reply to my despatch, as your Lordship will observe, does not give me any information as to what has been done, and how the cause is proceeding; and I cannot disguise from your Lordship that I am not by any means satisfied with the way this subject has been treated by the Peruvian Government to assist in securing the proper administration of justice. I shall wait your Lordship's instructions for what further action I should take in this matter, beyond watching the case, as it is my intention to do.

I would venture to suggest, my Lord, and I believe my suggestion can be sustained by international law, that it should be required of the Peruvian Government to prevent the recurrence of the vexatious detentions and the inhuman and barbarous treatment, of which Bell and Sterling have been the victims; and from what I am given to believe, on the merest suspicion, that whenever any suits are brought against British subjects, who are not in a position to procure for themselves legal assistance, to obtain a fair hearing and redress for wrongs inflicted; that notice should be given to Her Majesty's Legation, or to any of Her Majesty's Consuls, as the case may be, of such intended criminal proceedings, the grounds on which they are considered necessary, and the attendance of such British officer, or the representative he may appoint, should be invited by the Court in which such trial is to be held.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 1 in No. 9.

Mr. Nugent to Señor Aguero.

Excellency,

Lima, July 21, 1874.

I HAD the honour yesterday personally to present, for your Excellency's information, a telegram I had received that morning from the Earl of Derby, in which his Lordship instructed me to press strongly on your Excellency's Government for the immediate conclusion of the long-pending case of Bell and Sterling, and, if not concluded, to ask for their liberation on bail.

Your Excellency held out a hope that you might be able to give me some definite information yesterday evening, and I regret that I learnt nothing to enable me to place the case before Her Majesty's Government in a more favourable light than, unfortunately, I have hitherto been able to do.

As I mentioned to your Excellency yesterday, I had heard that the Judge Caceres had, on the 15th instant, sentenced Bell and Sterling to six years' penal servitude. This was confirmed by Bell and Sterling, in a letter dated the 16th, in which they prayed my interference in their truly lamentable condition. I at once instructed a lawyer to look into the case, but as yet I have not received any information from him, which makes me venture to hope that the assertion of the prisoners, from their ignorance of the language, is erroneous, as it is almost too incredible for belief that a Judge who was suspended on the 20th of June by the Minister of Justice, who the Supreme Court of the country on the 23rd of June decreed should be submitted to a criminal trial, should dare to profane the altar of justice by attempting to minister to it. The whole newspapers of the country teem with accusations against this ex-functionary, and it is not necessary for me to reproduce any of them here.

As the national holidays are rapidly approaching, it is most desirable I should obtain some correct information of how this case stands, and I now urgently beg

your Excellency to let me know in what state the case now presents itself, and that your Excellency would order to be furnished to me a copy of the legal proceedings, that I may carefully examine into them, and report on them to Her Majesty's Government.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 2 in No. 9.

Señor Aguero to Mr. Nugent.

(Translation.)

Lima, July 22, 1874.

ON receipt of your despatch of yesterday's date I lost no time in forwarding a copy to the Minister of Justice that he may make enquiries in the proper quarter, and remit to this Office a Report on the result of the cause which is being carried on against Bell and Sterling.

As soon as I obtain the documents asked for I shall have much pleasure in forwarding them to you.

Meanwhile I take, &c.

(Signed) J. DE LA RIVA AGUERO.

No. 10.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, September 10, 1874.

I HAVE received Mr. Nugent's despatch of the 27th of July, relative to the case of the English boys Bell and Sterling.

I approve the steps taken by him in this matter, and I have to instruct you to continue your efforts to obtain a fair trial for the boys in question.

I am, &c.
(Signed) DERBY.

No. 11.

Mr. Nugent to the Earl of Derby.—(Received September 14.)

My Lord,

Lima, August 10, 1874.

IN my despatch of the 27th of July I had to call your Lordship's attention to the imprisonment, on the 18th of July, of Laurence Higginson, a British subject, the steps taken by me on his behalf, and his release on the 24th of July.

As soon as the national holidays had run their course, I again addressed the Foreign Minister on the subject, copy of which I have the honour to inclose, suggesting that the money disbursed by Her Majesty's Consul at Callao in the maintenance of Higginson, until the return of his ship, should be refunded to the Consulate, and that some small compensation should be awarded to Laurence Higginson for his unjustifiable imprisonment. To this despatch I have not received any written reply, but its subject has been the matter of two conversations I had with the Minister, in which I sought to convince him of the unadvisability of the matter being referred home to Her Majesty's Government in its present unsettled and, to me, very unsatisfactory state. The arguments I was able to adduce were of no avail, the Minister refusing in the most positive terms any responsibility on the part of the Government; and I have no other resource but to refer the matter for your Lordship's decision, conveying my opinion that the man is entitled to compensation, and that the Peruvian Government should be made to feel that Her Majesty's Government will not allow their authorities to indulge in such high-handed measures with impunity.

In my despatch of the 27th of July I ventured to suggest to your Lordship certain requirements to be complied with by the Peruvian Authorities to prevent the recurrence of similar abuses of power. Since that despatch was written the Peru-Bolivian Consular Convention has been published in the "Peruano," the official journal, of which I have the honour to inclose a copy; and as the Articles XVI and XVIII of this Convention to a great extent bear out the views I submitted to your Lordship, I have

the honour to inclose translation of the same. It only remains for me to add that, looking to the important interests concerned, the prejudices occasioned, and the integrity of the British flag, I consider that a determined stand should be taken in the arrangement of this matter on a more satisfactory basis than on which it at present appears to rest.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 1 in No. 11.

Mr. Nugent to Señor Aguero.

Excellency,

Lima, August 1, 1874.

I HAVE refrained from intruding on your Excellency's attention during the national holidays to again lay before you the case of Laurence Higginson, the butcher of the "Santiago," who was taken out of his ship by order of the Port Captain at Callao, and after eight days confinement in the common cell of the Callao prison, was released under judicial order, the Judge finding, as I had ventured to suggest when I first addressed your Excellency on this subject, that he, the Judge, had no jurisdiction in the matter.

With his release Laurence Higginson was left destitute in the streets of Callao, and until his vessel returns to that port he has to be provided for by Her Majesty's Consul; now as his arrest and incarceration had their origin in what appears to have been a mistake on the part of the authorities in Callao, I beg to suggest to your Excellency that the expenses incurred since Laurence Higginson's liberation should be refunded to Her Majesty's Consul, that they may not appear in his accounts with Her Majesty's Government, and that some small compensation be made to Laurence Higginson for his arrest and imprisonment.

It appears to me that thus the ends of justice will be obtained, and a disagreeable question satisfactorily and worthily settled by your Excellency's Government.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 2 in No. 11.

Articles XVI and XVIII of the Treaty between Peru and Bolivia, signed at Lima, July 26, 1870. (Ratified in Lima, January 17, 1873; exchanged in La Paz, July 14, 1873.)

(Translation.)

ARTICLE XVI.

THE Consuls-General, Consuls, Vice-Consuls, or Consular Agents can communicate either personally or by deputy with their national vessels duly entered, to question the captains and the crews, to examine the sea papers, to take declarations on the voyage and the occurrences during it, to make out the manifests, and to facilitate the dispatch of the vessel. They can also accompany the captains and members of the crew before the tribunals and administrative offices of the nation, to serve as interpreters and agents in the business in which they have to understand or the demands which they have to bring forward.

The respective local authorities will give advice to the Consuls that they may be present at the declarations which the captains and the crews may have to make before the tribunals and local offices, in order to avoid any mistake or bad understanding which might prejudice the good administration of justice.

The communication which for this purpose shall be addressed to the Consuls will fix the exact hour, and if they should neglect to appear either personally or by deputy the proceedings will be carried on in their default, and proceedings shall also be conducted in their absence always in such declarations as should not be given before others than the legal authorities.

ARTICLE XVIII.

In all concerning the police of the ports, to the loading and discharging of vessels, to the security of merchandize, goods and effects, to laws, statutes, and local regulations, shall be observed:

The Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall be exclusively encharged to maintain internal discipline on board the merchant vessels of their nation, and by themselves only shall understand in questions of whatever kind which may arise between the captain, the officers and sailors, and more especially in those relating to pay and to the fulfilment of contracts reciprocally undertaken.

The local authority will exclusively interfere when the disorders which may take place on board the ships are of such a nature as to disturb the tranquillity and public order on shore or afloat, or when a person of the nation, or not belonging to the crew, is found implicated in such disorders.

The crimes and transgressions classified and punished as such by the laws of the country committed on board the said vessels in territorial waters shall be of the exclusive competency of the local jurisdiction.

In all other cases the authorities of the nation shall limit themselves to lend protection and assistance to the Consuls and other consular employés when by them required to arrest and imprison individuals entered on the roll of the crew, who, in their judgment, were to blame in the disorders pointed out.

The arrest on which this treats shall not exceed more than forty-eight hours.

No. 12.

Mr. Nugent to the Earl of Derby.—(Received September 14.)

(Extract.)

Lima, August 13, 1874.

I HAVE the honour to acknowledge your Lordship's despatch of the 23rd of June, transmitting correspondence with Mr. Charley, M.P., respecting the imprisonment of Bell and Sterling.

In my despatch of the 27th of July I acknowledged your Lordship's telegram, and acquainted your Lordship with what steps I had taken in the matter. It appears, as stated in that despatch, that the Judge Caceres had pronounced sentence after his suspension and after being submitted to a criminal trial; against this, as your Lordship is aware, I protested. As yet the Minister has not furnished me with Minutes of the proceedings; I, however, succeeded in obtaining the original documents yesterday through a lawyer, to whom I have entrusted the case; he has appealed against the sentence and brought the cause to a Superior Court. I shall thus reopen the trial again, and obtain for it, I trust, a fair hearing.

In criminal procedure in this country everything is done in writing; the parties are not confronted one with the other till all the declarations are taken; when sentence is about to be pronounced, the accused are allowed on demand to be confronted with the witnesses who have declared against them. The proceedings in this case have swelled up into a large book, and as I could not retain it in my possession more than a few hours, I can only hazard an opinion on the immense amount of declarations and contradictory evidence.

The case, as I understand it at present, appears to be as follows:—

On the 11th July, 1873, a Greek in the employ of the Oroya Railway complained to a Mr. James B. Rowst, Superintendent-overseer of the works on which he was employed, that a native in the employ, José Maria Robles, owed him a dollar. Rowst went to the house where Robles lodged to exact the payment; found him asleep; appears to have kicked him savagely, and made him pay 2 soles instead of the dollar he was owing. The Greek came in at the time; Robles reproached him with being the cause of his ill-treatment, and in terms reflecting strongly against Rowst. Rowst collared Robles with the intention of taking him to the authorities to have him put in irons; a scuffle ensued, blows were exchanged, and Robles stabbed Rowst, who immediately sought assistance from the gang of men under his charge. It is asserted a Scotchman of the name of Findlay G. Downie came to his assistance; they armed themselves and others. Meanwhile, the man Robles escaped and made for the hills. He was seen and pursued. Shots were fired at him by Rowst and Downie, but without taking effect. In a turn of the road Robles managed to secrete himself in a ditch. His hiding place was discovered; witnesses declare by Sterling; he was captured, beaten, and ill-treated, and dragged by Rowst and Downie to a bridge over the river, which appears to have been on the road to the prison where it was intended to confine him. From the bridge Robles jumped in, fell, or was thrown into the river. The evidence on this is very conflicting, but I rather incline to think he jumped in, as

Rowst remained with a piece of the man's shirt in his hand by which he had seized him to prevent his escape.

Some 200 workmen of all nationalities had by this time assembled, Americans, English, Chilians, natives, and Chinese; they followed the man down the river, witnesses state, preventing him from landing, and throwing stones at him till, finally, he was drowned. Many witnesses state that Bell was armed with a sword bayonet, and struck him on the head with it, inflicting a severe wound; others assert that he was struck on the head by a large stone thrown by Sterling, when he was battling for his life, and that Sterling occasioned his death. The post-mortem examination showed that the man had received a wound in the head, but there were no signs of a blow from a stone, such as stated to have been inflicted by Sterling; and, indeed, the confusion appears to have been such that it appears very unlikely that the stone could be traced to Sterling, and the post-mortem goes to show that no such blow was inflicted.

Information was lodged with the Judge; Downie, Bell, and Sterling were arrested and cast into gaol. Rowst disappeared, and although sought for has not been apprehended. Downie after a short imprisonment escaped, and has not since been heard of. I have no doubt that the authorities connived at his disappearance. The boys were left to bear the consequences of the crime. As a crime undoubtedly was committed, it is terrible to think that in a camp of over 200 people, not one was found with sufficient humanity to interpose for the protection of the victim. The real authors appear to have been Rowst and Downie; the criminality of the boys was the same as that of the hundred others who assisted, joined in, and participated in the death-hunt.

The boys positively declare that they kept themselves aloof from all interference in the matter; and a witness declares that he offered the sword bayonet to Bell to arm himself with it, but that he would not take it.

When the Judge commenced taking the declarations, there was very little alleged to criminate Bell and Sterling; things went slowly on, and I doubt not the whole thing would have died out, as it appears for some time Bell and Sterling were out of prison; and it must be urged in favour of their innocence that being at large they made no efforts to leave the place, but rather sought to obtain damages for false imprisonment.

These pretensions being made known, they were again taken up under judicial order and again imprisoned. The case then appears to have been taken up by Colonel Harris, who deserves credit for his efforts in the cause of humanity. Mr. Jerningham communicated with the Government; action was taken to push on matters, and it does appear to me with the intention of implicating Bell and Sterling, as all the telling declarations against them were not taken before January last, six months after the lamentable occurrence, and I must say I much doubt their veracity.

However, the matter is now in a fair way of being properly investigated, and I shall see, as far as is in my power, that justice is properly administered.

I have written this despatch very hurriedly, as I only received the documents yesterday evening on the understanding that I had to return them this morning before the Court opened, and I consequently beg your Lordship to pardon the many defects there may be in this despatch, my object being to make your Lordship acquainted with the least possible delay of all that has taken place in this matter.

No. 13.

Mr. Nugent to the Earl of Derby.—(Received September 14.)

My Lord,

Lima, August 13, 1874.

I HAVE the honour to call your Lordship's attention to the case of Captain Hall, Commander of the Pacific Steam Navigation Company's steamer "Arequipa," who, now some two months ago, was prevented leaving in command of his ship, on account of a complaint lodged against him by David Errock, the chief engineer of his steamer, whom he had suspended on account of drunkenness, which misdemeanour was taken cognizance of by a Naval Court, the charges were found proved against David Errock, and resulted in his dismissal from the Company's service. He then sought redress through the Tribunals of the country; and in consequence of this action, Captain Hall was detained in Callao.

I have now the honour to inclose copy of my despatch of the 17th of July to the Minister for Foreign Affairs on this matter; copy of my despatch of the 21st July on

the same subject; and translations of the Minister's replies; and also copy of my despatch of the 23rd of July to the Minister on the same subject, in which I expressed a hope that by my personal intervention in the matter I had induced the Judge Rospigliosi to take cognizance, and that I looked for Captain Hall being allowed to join his ship.

The matter is so fully explained in my despatches to the Minister for Foreign Affairs, inclosures in this despatch, that it is unnecessary to trouble your Lordship with a repetition of their contents; I have only to regret that my hope that the Judge would take action in the matter was not realized, and, notwithstanding my most strenuous exertions, up to this evening, as I am advised by telegram from Her Majesty's Consul at Callao, nothing has been done in the matter.

Any more serious and injurious maladministration of justice, my Lord, it is impossible to conceive; I feel myself unable to do more than I have done till I am favoured with your Lordship's instructions; but it does seem to me that some strong action should be taken by Her Majesty's Government to exact compensation for wrongs inflicted, and to prevent the recurrence of similar acts by which great hardship is entailed upon, and much prejudice and pecuniary loss suffered by Her Majesty's subjects.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 1 in No. 13.

Mr. Nugent to Señor Aguero.

Lima, July 17, 1874.

Excellency,

I HAVE to crave your serious attention to the following complaint, which has been laid before me by the Pacific Steam Navigation Company:—

It appears that when the Company's steamer "Arequipa" was at anchor in Malabrigo, and reported ready to leave that port, the chief engineer, David Errock, was found so intoxicated that he was not in a fit state to take charge of his engines. Captain Hall, the Commander, ordered him to his cabin, and put the second engineer in charge. An altercation afterwards took place, the chief engineer refusing to obey the lawful commands of Captain Hall, using very abusive language, and the Captain, to reduce him to obedience, was apparently more violent than necessary. It is not, however, easy to measure one's force, where lawful commands are mutinously disobeyed.

On the "Arequipa's" arrival in Callao, the circumstances being brought to the notice of the Company's Manager, he, as by law required, requested the Consul to investigate into the matter; and I finally instructed Captain Cookson, of Her Majesty's ship "Petrel," to call a Naval Court, which is the tribunal established by English law, and which law rules in British merchant-vessels, to try all cases of misdemeanour, riotous conduct, insubordination, and other offences committed on board British vessels between British subjects. The Naval Court decided that David Errock had been drunk and guilty of wilful disobedience to the lawful commands of his Captain, and he was, in consequence of this sentence of the Court, dismissed from the Company's service, and, under the great provocation that it was shown Captain Hall had received, and of the imperative necessity of preserving discipline where the lives of so many were involved, the Court severely reprimanded him, but did not inflict any further penalty.

The ends of justice thus appeared to have been obtained. The engineer, however, sought redress through the Tribunals of the country, trumping up a story that the Commander had attempted to murder him, on which an embargo was placed on Captain Hall. He was not allowed to leave in his ship, and, at the last moment, the Company had to find another commander. Bail was offered by the Company, by Mr. West, and by Messrs. Bujee, Goree, and Co., all of which were refused by the Judge, and, as I have stated, the ship had to sail without her Commander.

Dr. Isaac Sucro was then Judge; he has since been absent on leave, and the cause has passed into the hands of Dr. Ezequiel Rospigliosi, and by whom, on the bail being offered, the embargo on Captain Hall was removed, and he was allowed to sail in his ship to Eten on the 2nd instant. However, some days afterwards, the same Judge decreed that the embargo was in full force, and, on Captain Hall's return, he was again prohibited from leaving, and up to the present time nothing further has been done to relieve him from the painful position in which he is placed; nor upon the Company, from the great inconvenience and prejudice thereby caused to them.

I beg to call your Excellency's attention to the fact that Captain Hall and his witnesses were in attendance at the Court all last Monday, and till late on Tuesday, but no depositions were taken, Dr. Rospigliosi declining to interfere in the matter.

The Company then sought redress from the Prefect, but he was in Lima. The Sub-Prefect was then appealed to; he suggested taking the opinion of another Judge of First Instance, Dr. Don Uladislao Julio Rospigliosi. He appears to have been inclined to arrange matters; but, after much conversation, no decision was arrived at. All channels of a case of that urgency which required immediate attention were thus closed to Captain Hall and his employers. I ask your Excellency if such a state of affairs can be allowed to continue. If consented to, it would be the inevitable ruin of the whole native and foreign commercial interests of Peru. It would shake the nation's prosperity to its very foundation. At the instigation of any evil-disposed party, the whole of the passenger, commercial, and postal arrangements of the country under such a system can at once be paralyzed.

It is not always given to a Company to have another commander at their disposal, or to be willing to supply one; and, indeed, in the present instance, Captain Mills, of the "Pacific," whose services were urgently required in his own ship, was obliged to take charge of the "Arequipa," to the great prejudice and, perhaps, pecuniary loss to the Company.

It would appear that Her Majesty's laws for the due administration of justice in all offences committed on board Her Majesty's mercantile marine between British subjects should be sufficient to meet all cases of insubordination, mutinous conduct, and assault; there can certainly be no doubt that it has always been so considered in Peru, and it would be very unwise that such wholesome custom should not continue to prevail.

I can assure your Excellency, from my own experience, embracing a period of twenty-nine years in Her Majesty's Consular Service in Peru, that during this more than a quarter of a century my Consular right to adjudicate in such matters has never been called in question, and the willing assistance of the port authorities has always been lent me to make effective the punishments inflicted by our Naval Courts, such as imprisonment and fines; and I doubt not that such practice, so sanctioned by us once, is a wise one—difference of language, customs, and laws rendering it impossible that the Tribunals of the country can as speedily and satisfactorily arrange and adjudicate in offences committed by British subjects on board British vessels, besides involving litigant parties in legal expenses which such Naval Courts and Consular jurisdiction were intended to obviate.

Every disposition taken in Callao in this present case can hardly bear legal sifting. The misdemeanour was committed in Malabrigo, hence the Judge in Callao has no jurisdiction.

The crime, as complained of by the engineer, was an attempt to murder. This was not met by an embargo, it should have been by an order of imprisonment, and the proper action, as the assault was declared to be committed afloat, was to bring it before the Captain of the Port, in whose hands are the whole police authority of the harbour, and it was for him to decide on the complaint; and if it was, in his opinion, of a sufficiently serious nature to warrant an imprisonment, that should have been ordered by him, and the prisoner by him placed at the disposal of the Judge.

By law the Judge is bound to commence taking the declarations within twenty-four hours, and he could then have decided whether the majesty of the law required that a criminal cause should be instituted, and not sacrifice the Commander nor prejudice the Company and the public to such a ruinous extent, on the mere assertion of an unworthy servant, who was justly punished by dismissal for a fault, I may almost say a crime, as his drunken incapacity to attend to his engines might have caused the loss of all on board.

I would pray your Excellency to ordain that immediate orders be given to remove the embargo placed on Captain Hall; in no way can the ends of justice be advanced by the present procedure. Captain Hall is merely engaged in short voyages, and every two or three days, when required, he can be at the disposal of the Judge, and all, apparently, that the law requires of him is his own declaration, and that of his witnesses, and these he has been ready and most anxious to produce.

I feel it my duty to reserve the right to claim from the Peruvian Government a fair compensation for the losses he has sustained through his unjustifiable detention.

I have, &c.

(Signed) G. H. NUGENT.

Inclosure 2 in No. 13.

Mr. Nugent to Señor Aguero.

Excellency,

Lima, July 21, 1874.

ON the 17th instant I had the honour to call your Excellency's attention to the case of Captain Hall of the "Arequipa," his detention on shore by the authorities, and that, when I wrote, neither his declarations nor that of his witnesses had been taken.

It is now nearly a month since Captain Hall was arrested under judicial orders.

On the 18th, I had a personal interview with your Excellency to expose the extreme state of mental depression brought upon Captain Hall by his harrassing position, under the extraordinary delays of the Law Courts. Your Excellency took immediate action in the matter, but I regret to say nothing came out of it. I now learn that, up to this afternoon, neither the declaration of Captain Hall nor of any of his witnesses has been taken. May I ask your Excellency how long is this cruel delay to be allowed to continue? How long are the obligations of the judicial authorities to be by themselves set at defiance?

I beg to inform your Excellency that the "Arequipa," the steamer of which Captain Hall is the commander, sails on the 23rd, and I trust that your Excellency will use your most strenuous exertions that this untoward case may be so far arranged as to allow of Captain Hall taking command of his vessel on Thursday next.

A matter which appeared of easy arrangement has now assumed proportions of a most disagreeable character, and I would regret if these should become still more complicated through the continued inaction of the judicial authorities.

I have, &c.

(Signed) G. H. NUGENT.

Inclosure 3 in No. 13.

Señor Aguero to Mr. Nugent.

('Translation.)

Lima, July 20, 1874.

ON the 18th, your note of the 17th was received in this office, having reference to the complaints brought before the Legation by the Pacific Steam Navigation Company, on account of the arrest of Captain Hall, of the steamer "Arequipa," by an order of the Judge of First Instance in Callao, on account of a charge brought against him by David Errock, late engineer of the said ship.

I immediately addressed myself to my colleague, the Minister of Justice, recommending him that, through the proper channel, he should make urgent instance; that, taking into account the prejudices occasioned to the Company through the detention of Captain Hall, that the question should be decided with the least possible delay.

My reply would close with this if the last paragraph of your despatch did not require that I should dwell on its subject. You state that you reserve to yourself the right to claim from the Peruvian Government a just compensation for the losses Captain Hall has sustained on account of his detention. Without, on my part, entering on the justice or injustice of this measure, purely judicial, you will allow me to observe that my Government cannot in any case accept the responsibility of an act which exclusively belongs to the Tribunals of Justice. The Judge of Callao, in ordering the detention of Captain Hall, has undoubtedly proceeded within the orbit of his attributions, and in conformity with the legal requisitions. If Mr. Hall believes he has a right to claim, he should make it against the opposite party who is called upon to respond for the consequences of a calumnious accusation, and if he has reason to complain of the procedure of the Judge, he should proceed against him in the Superior Court, that the abuses may be remedied which have been committed to his detriment.

(Signed)

J. DE LA RIVA AGUERO.

Inclosure 4 in No. 13.

Mr. Nugent to Señor Aguero.

Excellency,

Lima, July 23, 1874.

I HAVE the honour to acknowledge your Excellency's despatches of the 20th and 22nd instant, having reference to the case of Captain Hall of the "Arequipa,"

and I beg to thank your Excellency for the interest you have taken in this untoward case.

From what I can understand, the great detention has been occasioned by no Judge in Callao being willing to take cognizance in the cause.

The cause, I am assured, was initiated by Dr. Suero, who, it appears, did take a declaration, after which he left his post on leave of absence. The cause then passed over to his Conjuez, Dr. Rospigliosi, who, at first, took cognizance in the cause, inasmuch as to remove the embargo on Captain Hall, and subsequently to re-enforce it. Since then he has steadily refused to understand in the matter, on the plea that Dr. Suero was in Callao, and could act. Dr. Suero, on application, was as steady in his refusal to do so, on the grounds that he was on leave of absence, whether in Callao or elsewhere, he stated, did not concern the Conjuez Rospigliosi, until he notified him by an Escrivano that he had re-assumed his duties. It thus appears that, on a private misunderstanding between these Judges, the whole business of the Court was suspended for many days, to Captain Hall's great pecuniary detriment, and to the manifest deterioration of his health. I pass, without further comment, upon this most disastrous dereliction on the part of one or other of the Judges, to that paragraph in your Excellency's despatch of the 28th, conveying to me your Excellency's decisions to the right I reserved to claim from the Peruvian Government a fair indemnity for the losses and prejudices Captain Hall had sustained, under what I considered unjustifiable detention. To these must now be added a claim on account of shattered health. Your Excellency considers that such claim should be made the matter of an action against the Plaintiff. Under the circumstances as above detailed, I regret extremely that I cannot find any grounds on which to alter the opinion I conveyed to your Excellency in my note of the 18th, as though it may be accepted as a fact that, in the first instance, the prejudice sustained by Captain Hall was due to the Plaintiff, yet I think your Excellency will admit, the long detention and the ill-health thereby brought upon him was due to the mal-administration of justice, and that the Peruvian Government must be held responsible for the acts of its officials. This, however, is a matter I do not propose to press at present; I wait until I am furnished with the opinion and instructions of Her Majesty's Government.

As there was such an evident dead-lock in this unfortunate affair, I went down to Callao this morning to see if something could not be done to expedite matters, and I am glad to be able to inform your Excellency that the Judge Rospigliosi has agreed to take cognizance in the cause, and I have well-grounded reasons to hope that some satisfactory arrangement may be arrived at, before the "Arequipa" sails this evening. I regret, however, to add that, under any circumstances, Captain Hall will not be able to proceed in his ship, as, when in Callao, I was presented with a medical certificate that, in his present state of health, it would not be prudent for him to take charge of his steamer.

I have, &c.
(Signed) G. H. NUGENT.

Inclosure 5 in No. 13.

Señor Agüero to Mr. Nugent.

(Translation.)

Lima, July 24, 1874.

I HAVE had the honour to receive your despatch of yesterday's date, in which you have been pleased to inform me that, having gone down to Callao to inquire into the state of the cause brought against Captain Hall, you have good reasons for hoping that a satisfactory arrangement will be arrived at before the departure of the steamer the command of which is entrusted to Captain Hall.

I take, &c.
(Signed) J. DE LA RIVA AGÜERO.

No. 14.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, September 16, 1874.

I HAVE received Mr. Nugent's despatch of the 27th of July, reporting the circumstances under which Laurence Higginson, a British subject, was taken out of

the steamer "Santiago," in the Bay of Callao on the 18th of July, under an order of the Captain of the Port, and thrown into prison, where he was detained until the 24th of the same month.

I have to state to you that I approve Mr. Nugent's proceedings in the matter.

I am, &c.
(Signed) DERBY.

No. 15.

The Earl of Derby to Mr. March.

Sir, *Foreign Office, September 19, 1874.*
I HAVE received Mr. Nugent's despatch of the 13th ultimo, respecting the case of the two boys Bell and Sterling, and I have now to acquaint you that I approve the steps he has taken in the matter, as reported in his despatch.

I am, &c.
(Signed) DERBY.

No. 16.

Mr. Charley, M.P., to the Earl of Derby.—(Received October 7.)

My Lord, *5, Crown Office Row, Temple, October 7, 1874.*
THE inclosed documents relate to a case in which your kindly interest and prompt action has elicited a lively satisfaction in Peru. The documents will speak for themselves. The affidavit of the principal actor in the tragic event will, I trust, prove useful.

Sincerely hoping that your Lordship's further intervention may secure the release of the unhappy lads, believe me, &c.

(Signed) WM. THOS. CHARLEY.

Inclosure 1 in No. 16.

Mr. Harris to Mr. Charley, M.P.

Dear Mr. Charley, *22A, Austin Friars, London, October 5, 1874.*
THE two poor boys Sterling and Bell have been condemned to six years' penal servitude, and from my knowledge of the case I am sure they are innocent of any crime. Mr. Nugent, the Minister at Lima, has applied for a new trial, and is doing all he can for the poor lads.

I send herewith copy of a letter addressed by a fellow-labourer of the two lads to a Mr. Rowe, who was chiefly concerned in the disturbance in question.

Mr. Rowe has sent me his statement on oath of the facts, which I inclose,* and as this will be of much importance at the new trial, evidence in Peru being by documents and not by *viva voce*, I shall feel much obliged if you will ask Lord Derby to instruct a further communication to Peru, forwarding the aforesaid deposition.

I am quite ready at any time to see Lord Derby or anyone else with reference to the matter.

My father is doing his utmost in Peru, and is much obliged to you for your interest on behalf of the boys.

I beg to remain, &c.
(Signed) J. HARRIS.

Inclosure 2 in No. 16.

Mr. Penny to Mr. Rowe.

Dear Friend, *Rio Blanco, August 25, 1874.*
I HAVE delayed writing you for a long time because I was always in hopes to be able to invite you back to Peru; but I am sorry to say that even now I cannot do so,

* Sent to Mr. March in No. 19.

not on account of any fault of yours, but on account of the miserable ways that the laws of Peru are administered. The two poor boys Joseph Sterling and William Bell have been condemned to six years' penal servitude, and you know that they are as innocent as the babe unborn of the crime alleged to them—as innocent as you are yourself—but, by the obstinacy and ill-feeling of the Judge Caceres, and by false witnesses, they have been condemned to spend six years of the flower of their youth in a dirty miserable Peruvian prison. However, there is some hope for them, because Colonel Harris and several English gentlemen have taken hold of their case and sent word to Lord Derby of the affair.

I intend to send a full statement of the case to Colonel Harris as soon as possible. In the meantime, I would like you to go and see Lord Derby, and do what you can for the poor boys. If the English Government is what it always has been, they will not allow two of their subjects to linger six years in a Peruvian prison, when I can bring witnesses to prove that they are perfectly innocent. I would like very much to have you come out, but I would not advise you come out as yet. If it were what we call a "white country," and a man could have an impartial trial, you would have nothing to fear.

Your friends are all well, and we are as busy as ever building the Oroya road. I am at present living with M. Van Brocklin, near Rio Blanco, and enjoy perfect health. Hoping you are well, and wishing yourself and wife every happiness,

I remain, &c.

(Signed) R. H. PENNY.

No. 17.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, October 8, 1874.

I HAVE received Mr. Nugent's despatch of the 27th July, relative to the circumstances under which Mr. Laurence Higginson was taken out of the steamer "Santiago" in the Bay of Callao on the 10th of that month under an order from the Captain of the Port, and thrown into prison, where he was detained until the 24th.

I have also received Mr. Nugent's further despatch of the 10th ultimo upon the same subject.

These despatches have been referred to the Law Officers of the Crown, and I have now to acquaint you that Her Majesty's Government are of opinion that the conduct of the Peruvian authorities in their treatment of Mr. Higginson, as detailed in your despatch of the 27th July, and which does not appear to be denied by the Peruvian Minister in his note to you of the 21st July, was a gross outrage upon a British subject. I have, therefore, to instruct you to address a strong remonstrance to the Peruvian Government on the part of Her Majesty's Government on the subject, and to demand at the same time an immediate ample apology, as also full compensation for Mr. Higginson.

Her Majesty's Government observe that the note of the Peruvian Minister merely states that he had given orders for the release of Mr. Higginson, but in no way repudiates the charges made by you, though, from your despatch of the 10th ultimo, it would appear that the Minister had verbally denied the responsibility of his Government in the matter.

Until it is seen whether the Peruvian Government will refuse to comply with the demand which you are hereby instructed to make upon them, and, if so, on what grounds their refusal is based, it would be premature to consider the question of the further steps which in that event it may become necessary to take with a view of obtaining redress.

I am, &c.

(Signed) DERBY.

No. 18.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, October 10, 1874.

I HAVE had under my consideration, and have referred to the Law Officers of the Crown, Mr. Nugent's despatch of the 13th of August, relative to the detention

at Callao of Captain Hall, of the Pacific Steam Navigation Company's steamer "Arequipa," on a charge of attempting to murder David Errock, formerly chief engineer of his vessel.

I am advised that it appears from Mr. Nugent's despatch, and its inclosures, that the charge against Captain Hall was one of attempt to murder within the Peruvian territory, in which case the Peruvian Tribunals would have jurisdiction, and Her Majesty's Government could not properly interfere.

I have, however, to instruct you to express strongly to the Peruvian Government the great regret of Her Majesty's Government at the delay that has taken place in dealing with the case, and the hardship which has thereby been caused to Captain Hall. You will point out that such an unjustifiable delay in the administration of justice, besides being in itself a wrong, cannot fail to have a most injurious effect upon the prosperity of Peru by discouraging foreign trade with Peruvian ports, and the employment of foreign capital in that country.

I am, &c.
(Signed) DERBY.

No. 19.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, October 15, 1874.

WITH reference to my despatch of the 19th ultimo, relative to the case of the boys Sterling and Bell, I transmit to you herewith copy of a letter from Mr. Charley, M.P.,* inclosing an affidavit sworn by Mr. Rowe, the person chiefly concerned in the disturbance which led to the apprehension of the boys in question.

You will take such steps as may be necessary to have this affidavit laid before the Court in which the case is tried, in support of the defence.

I am, &c.
(Signed) DERBY.

No. 20.

Mr. March to the Earl of Derby.—(Received November 14.)

My Lord,

Lima, October 13, 1874.

I HAVE the honour to submit to your Lordship the following statement in regard to the case of Bell and Sterling, the two British subjects whose incarceration at Matucana, and since then at Lima, has formed the subject matter of several previous communications.

Bell is a native of Liverpool, bordering on his eighteenth year; Sterling is a coloured man, born in Antigua and aged twenty-five. My predecessor in this Legation endeavoured to gain a reconsideration of the case by the local judicial authorities, and within the last few days I have succeeded in obtaining a verdict from the Superior Court. This verdict is, I regret to say, adverse to Bell and Sterling. It affirms their guilt, and sentences them, in the place of the previous Judgment of six years, to an imprisonment of fifteen years in the penitentiary. The evidence collected in this matter forms a bulky volume, and though I could only have access to it for a very short time I saw sufficient to impress me with its *ex parte* character. From all that I have heard on the subject, both from independent sources and from the accused themselves, and especially looking at all the surroundings of the case, I cannot but be of opinion that the heavy sentence passed upon Bell and Sterling is not warranted, and that the testimony upon which the Judgment is based is not unimpeachable. The fact that the active steps which furnished apparent grounds for later proceedings were not taken against them until after they had begun to move for false imprisonment is in itself suspicious. Under these circumstances, and there being still a chance of these proceedings being quashed, I have lost no time in removing the matter from the Superior to the Supreme Court, the last appellate Tribunal open to me, whilst at the same time I am making representations on the subject to the Peruvian Government, the result of which I will without delay report to your Lordship. In the meanwhile it may be well to inform your Lordship that Bell and Sterling, whose removal to the penitentiary I have for the present succeeded in preventing, do not appear to be

* No. 16.

suffering greater hardship than that which is entailed by loss of liberty and association with unclassed malefactors. On the last occasion of my visiting them I remarked a decided improvement in their appearance. Their food consists of soup, a reasonable supply of rice, some boiled meat and bread, which is given them twice a day. They are lodged in the hospital ward, a spacious airy room, on entering which I found no traces of vitiated atmosphere. The prisoners in this part of the establishment fare somewhat better than the rest. I should perhaps here remark that Judge Cáceres was never removed from his post, as stated in a previous communication from this Legation, and that notwithstanding the serious charges made against him he still continues in the discharge of his duties.

In addition to the case of Bell and Sterling others have come to my knowledge, which I have felt it my duty to urge upon the attention of the Peruvian Minister for Foreign Affairs. As they are still under consideration, I defer reporting further upon them at present.

I have, &c.
(Signed) EDWARD MARCH.

No. 21.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, November 19, 1874.

I HAVE to express to you my approval of the steps you have taken on behalf of the two British subjects, Bell and Sterling, as reported in your despatch of the 13th ultimo.

I am, &c.
(Signed) DERBY.

No. 22.

Mr. March to the Earl of Derby.—(Received December 15.)

My Lord,

Lima, November 2, 1874.

I HAVE the honour to report to your Lordship that, on the 29th ultimo, I received a despatch from the Peruvian Minister for Foreign Affairs, informing me that a ship called the "Talisman," sailing under the British flag, had been engaged in acts of piracy in the port of Pacasmayo. The charges brought against her were,—carrying clandestinely arms and munitions of war, with the object of landing them in Peru, and creating a disturbance; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and taking to sea as prisoners the Captain of the port of Pacasmayo and several Custom-house officials; and opening fire upon a boat filled with national soldiers. In view of these charges, involving as they did serious infractions of the Merchant Shipping Act 1854, and having unfortunately reason to believe in their general correctness, I immediately conferred with the Commander of Her Majesty's ship "Fantôme," which was at anchor in the port of Callao, and we decided that as soon as some reliable information could be obtained of the movements of the "Talisman," the "Fantôme" should proceed in search of her, and ascertain if possible her nationality, and what breaches of the law she had committed. I then addressed a circular to the Consular Officers in Peru, calling their attention to what had been alleged against the "Talisman," and enjoining their special vigilance, whilst, at the same time, I placed myself in communication with the Legations at Santiago, Bogotá, and Quito, and reported the case to the Commander-in-chief of Her Majesty's Naval Forces in the Pacific.

The "Talisman" is described as a screw-steamer of 135 tons register, belonging to the port of Glasgow, commanded by one G. B. Haddock, and owned by Messrs. Moran, Galloway, and Co., of Liverpool, from which port she is said to have taken her departure, with orders to touch at River Plate and Coronel. It was evidently in Chile that the "Talisman" fitted-out for her revolutionary enterprise, for at Quinteros she received on board the leaders of the movement and their band, consisting of some forty-seven men. Their plan appears to have been to create a revolution in some part of the north of Peru, whilst their confederates were doing the same in the south, and then marching

on Lima, unite their forces in the Capital. The attempt at Arequipa failed, as your Lordship is aware, though not before several lives had been lost; and the one in the north has been equally unsuccessful.

That the movements of the "Talisman" in Chilean waters were such as to excite suspicion is clear, for whilst at Coronel, on the 12th of August last, on the way to my post, the "Talisman," which was then in the port, attracted my attention, by the fact of her having been there a long time apparently idle, and the evident disinclination of the master to give any information as to his destination. I made a note of this circumstance, and on arriving at Valparaiso, imparted my impressions to Her Majesty's Consul at that place. This being so, it is reasonable to suppose that others must have had their attention directed to the "Talisman;" indeed, the President of Peru and the Minister for Foreign Affairs have both assured me that they were perfectly acquainted with all her movements from the moment she arrived in Chilean waters, and that it was in consequence of her departure from Caldera, and the certain information they had received of her destination, that the Government a short time back sent troops to Pacasmayo, and ordered the iron-clad "Independencia" to the same place. I am induced to refer to these matters in order to show your Lordship that this Government had ample time to prepare for the reception of the "Talisman," and that not only did they not succeed in thwarting her movements, but actually failed in enforcing the law in one of their own harbours, and within almost reach of their most powerful ship-of-war.

The master, second mate, and three of the seamen of the "Talisman," were apprehended, and are now in custody. I will take care to watch whatever proceedings may be taken against these persons, and secure for them proper treatment and a fair trial.

This attempt to disturb the peace of the country has naturally given rise to much excitement, and the use of the British flag is most immoderately commented upon. From the correspondence which has taken place, a copy of which I have the honour to inclose, your Lordship will perceive that I confined my action to adopting the needful measures for inquiring into offences said to have been committed by a British ship, and expressing to the Peruvian Government the regret I naturally felt at the improper use alleged to have been made of the British flag. It is not improbable that the "Talisman," at the time of her abduction of the Captain of the port of Pacasmayo, was in reality owned by the foreigners who were on board as leaders of the insurrectionary movement, and if so, her simulation of British nationality will render her subject to forfeiture under section 103 of the Merchant Shipping Act 1854.

I have, &c.

(Signed) EDWARD MARCH.

Inclosure 1 in No. 22.

Mr. March to Señor Agüero.

Excellency,

Lima, October 29, 1874.

REPORTS having reached me that a vessel hoisting the British flag has been engaged in acts constituting breaches of the law on this coast, I should feel obliged by your Excellency communicating to me any information on the subject which may be in possession of the Peruvian Government. The vessel's name appears to be the "Talisman," and was last heard of at the port of Pacasmayo, on the 23rd instant.

I have, &c.

(Signed) EDWARD MARCH.

Inclosure 2 in No. 22.

Mr. March to Commander Long.

Sir,

Lima, October 29, 1874.

ALTHOUGH the reports now circulating in regard to the wrong-doings of a vessel called the "Talisman," said to be flying the British flag, have not been confirmed or brought to my notice by the Peruvian Government, they appear sufficiently consistent to demand the attention of the British Naval Authorities. I would, therefore, suggest the adoption of the measures we have already discussed, with the view of ascertaining, if possible, the whereabouts of the "Talisman," and what breaches of the law, if any, she has committed. In "The Mercantile Navy List," the "Talisman" is

described as a screw-steamer of 135 tons register, and belonging to the port of Glasgow. It is reported that the "Talisman" was last seen going south; but with the opportunities you have of acquiring information, and your knowledge as a seaman of the movements of vessels on this coast, you will be the best judge of the direction in which it may be desirable for you to proceed.

I am, &c.
(Signed) EDWARD MARCH.

Inclosure 3 in No. 22.

Commander Long to Mr. March.

Sir,

"Fantôme," Callao, October 29, 1874.

I HAVE the honour to acknowledge receipt of your letter of this day, relative to the proceedings of the steamer "Talisman." I have made every inquiry concerning her movements, and can obtain no information other than conjecture as to her present position. As it is too late to prevent any attempt she might make to take coals from the Pacific Steam Navigation Company's hulk at Payta, I judge it best to await the arrival of definite information, holding myself in readiness to proceed in search of her immediately any is obtained.

A copy of your letter, with all the information I can obtain, shall be forwarded to the Commander-in-chief and to the Senior Officer on the Coast of Chile by the earliest opportunity.

I have, &c.
(Signed) S. LONG.

Inclosure 4 in No. 22.

Señor Aguero to Mr. March.

(Translation.)

Foreign Office, Lima, October 23, 1874.

I HAVE had the honour of receiving your estimable despatch of this date [*sic*] in which you are pleased to make known to me that, it having come to your knowledge that a ship with the British flag has committed on the coasts of the Republic acts contrary to the laws, you desire that I transmit to you all the information possessed by the Government in connection therewith.

Deferring to your just desires, I proceed to set forth the facts as they have occurred, hoping that that Legation will take the steps it deems necessary in view of the most grave attempts committed by the said ship under the British flag and against the authorities and laws of the Republic, and with breach of the law of nations. The "Talisman," for so the steamer in question is named, arrived some days ago at the coast of Chile, and was cleared at Talcahuano for Vancouver, with orders to touch at Callao, the cargo being described as machinery. But, on the 11th of the present month, she put into Quinteros, not a free port, a few leagues from Valparaiso, from which she sailed the same day, after taking on board all the individuals composing the expedition against Peru, and who, it appears, number 200 at the least. On the morning of the 15th the "Talisman" entered Caldera to take provisions and coal, declaring that she had only six passengers and the afore-mentioned cargo on board.

Cleared from that port for Vancouver, with orders to touch at Callao, the "Talisman" arrived at Pacasmayo on the 23rd, at 2 A.M., where her Captain Haddock, the second mate, and three seamen disembarked in quest of the means which, they said, they required to repair damage to the machinery, which, they were informed, could be effected through the mechanics of the railway. But the suspicions of the authorities having been excited, the Captain of the Port ordered the detention of the said individuals, and, in order to make the due inquiries, he was removed on board, where he was taken prisoner by the conspirators, who, to this attempt, aggregated that of repelling by shots a boat manned by the public force sent shortly afterwards. In view of the attitude of the town of Pacasmayo and of the troops there sent, the conspirators found their project frustrated, and they weighed anchor at half-past 2 P.M., taking with them the maritime authority of the port, several employés of the Custom-house, and a boat of the Harbour Office.

Summing up, then, the facts noted, the "Talisman" has been guilty of the

following crimes :—Clandestine conveyance of armament and articles of war, with the object of launching a crusade against Peru; conveyance of the expeditionaries under the flag of a friendly nation; falsification of the clearance of the ship and provision of false papers; seizure of the Captain of the Port at the moment he was discharging his duties; repulse by shots of the native force; abduction of the marine authority and other public employés, and robbery of the boat of the Harbour Office.

As you see, here is a cumulation of acts of true piracy which place their authors outside the law. And the gravity of those acts rises at once if it is considered that they have been executed under the flag of a nation so respectable as England, and against a country which preserves with her the best friendly relations.

My Government, therefore, does not doubt that you, making yourself the interpreter of that of Her Majesty, and anticipating its orders, will hasten to communicate with the Consuls as well as with the British ships of war in the Pacific, in order that, wherever the steamer "Talisman" presents herself, she be captured and her crew apprehended as guilty of crimes of piracy. By acceding to this suggestion, you will give not only a proof of amity towards Peru and its Government, but also a mark of the respect merited from you by the international laws so outrageously conculcated by the authors of that vandalic expedition. The English flag hoisted by the "Talisman" cannot but have been usurpated, and that vessel has not, in reality, any nationality, for her original one she has lost through the crimes she has committed. "That want of nationality," as Ortolan says in his "International Rules of the Diplomacy of the Sea," "and the consequences of piracy which injure or might injure all navigators, constitute that crime a crime against the law of nations. On that account, all navigators are authorized to detain pirates whose acts, whoever the authors may be, and wherever committed, fall under the jurisdiction of the tribunals of all estates."

I profit, &c.

(Signed) J. DE LA RIVA AGUERO.

Inclosure 5 in No. 22.

Mr. March to Señor Aguero.

Lima, October 30, 1874.

Excellency,

I HAVE had the honour of receiving your Excellency's despatch dated, by mistake, the 23rd instant, bringing to my notice, in reply to the inquiry I ventured to address your Excellency yesterday, certain circumstances connected with a steamer called the "Talisman," by which it would appear that this vessel, sailing under the British flag, has been guilty of acts of piracy. I beg to thank your Excellency for placing me in possession of this information, and thus enabling me to shape and prosecute with vigour the measures I had already been led to adopt by the rumours which had indirectly reached me on the subject. It is a work of supererogation to convey to your Excellency my feelings of indignation and regret that the British flag should have been used in the commission of such outrages as are set forth in your Excellency's communication, and my Government will, I know, deplore that the perpetrators of such crimes, occurring, as these did, in a Peruvian port, should have escaped the action of the local authorities, and thus, for a time, evaded the punishment which offences of that nature merit. On the other hand, I beg to offer my sincere congratulations at the failure of what, from your Excellency's statement, appears to have been a revolutionary enterprise, and to express the hope that no such elements will again disturb the peace and security so necessary to the progress of a nation, and without which the immense resources of this favoured Republic can scarcely be developed. I have directed the attention of the Senior British Naval Officer on this coast to the case of the "Talisman" sailing under the British flag, and I need scarcely say that no effort will be wanting on the part of Her Majesty's officers to arrest that vessel and inquire into the serious charges preferred against her. I may add that I have also placed myself in communication with my colleagues on the Pacific coast, and doubt not that the greatest supervision will be exercised by them in the matter. Unfortunately, at present we know nothing definite in regard to her movements, but it is to be hoped that the steamers due at Callao to-morrow may bring some information.

I avail, &c.

(Signed) EDWARD MARCH.

Inclosure 6 in No. 22.

Mr. March to Consul Nugent.

Sir,

Lima, October 29, 1874.

AS there is reason to believe that a vessel called the "Talisman," hoisting the British flag, has been engaged in acts which would constitute grave violations of the law, I have to request that, in the event of your becoming acquainted with the movements of that ship, or learning any particulars concerning her, you will lose no time in communicating the same to this Legation, imparting at the same time such information as you can properly give to the local authorities.

I am, &c.

(Signed) EDWARD MARCH.

P.S.—Since writing the foregoing, the Peruvian Government have preferred the following charges against the "Talisman":—Carrying clandestinely arms and munitions of war, with the view of creating a disturbance in Peru; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and making a prisoner of the Captain of the Port of Pacasmayo, and armed resistance to the local authorities. Should the "Talisman," therefore, come within your jurisdiction, you will of course inquire into these charges, and adopt the necessary measures for the vindication of the law.

E. M.

[Similar despatches were also addressed to Her Majesty's Consular officers at Islay, Iquique, San José Lambayeque, Pisagua, and Cerro de Pasco.]

Inclosure 7 in No. 22.

Mr. March to Commander Long.

Sir,

Lima, October 30, 1874.

SINCE writing to you yesterday, I have received a communication from the Peruvian Government, informing me that the "Talisman," sailing under the British flag, has been guilty of acts of piracy in the port of Pacasmayo. The charges preferred against her are: carrying clandestinely arms and ammunition of war, with the view of creating a disturbance in Peru; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and making a prisoner of the Captain of the Port of Pacasmayo, and armed resistance to the local authorities.

In reply, I have informed the Peruvian Government that every effort will be made by Her Majesty's officers to arrest that vessel, should she be found, and inquire into the breaches of the law which she is alleged to have committed. The bare fact of her flying the British flag, and being without proper papers, as I have reason to believe she is, will give you sufficient grounds to act in the sense above indicated.

I am unable to learn from the Peruvian Government or other sources the whereabouts of the "Talisman," and it will be a matter for your consideration to decide how far you would be justified in proceeding to sea under such circumstances.

I am, &c.

(Signed) EDWARD MARCH.

Inclosure 8 in No. 22.

Mr. March to Mr. Rumbold.

Sir,

Lima, October 31, 1874.

I HAVE the honour to draw your attention to the circumstances connected with a steamer called the "Talisman," hoisting the British flag, which appears to have been engaged in practices constituting grave breaches of the law. The following charges have been preferred against the "Talisman" by the Peruvian Government: carrying clandestinely arms and ammunition of war, with the view of creating a disturbance in Peru; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and making a prisoner of the Captain of the Port of Pacasmayo on the 23rd instant, and armed resistance to the local authorities. It would appear that the master of the "Talisman," named Haddock, went ashore at Pacasmayo with a boat's crew, and was detained by the authorities, and that subsequently on some

Peruvian soldiers approaching the vessel, in which were many passengers, said to be engaged in a revolutionary enterprise, they were fired upon and forced to return to the shore. The Captain of the Port, who had previously gone on board, was made prisoner and taken to sea. In the Mercantile Navy List, the "Talisman" is described as a screw steamer of 135 tons register, belonging to the port of Glasgow. I am informed by the Peruvian Government that she took in her cargo, alleged to be contraband of war, at ports in Chile, and that Caldera was the last place she sailed from. I may here remark that I saw the "Talisman" at Coronel on the 12th of August last, and that observing her suspicious appearance, I made a note of the fact, and on my arrival at Valparaiso handed a written memorandum on the subject to Consul Drummond-Hay. I have communicated these facts to the several officers of Her Majesty's service on the Pacific Coast, and in view of the "Talisman" having cleared from Chilean ports at which there are British Consular officers, I have deemed it right to place you also in possession of this information.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 9 in No. 22.

Mr. March to Mr. Bunch, Her Majesty's Minister Resident at Bogotá.

Sir,

Lima, October 31, 1874.

I HAVE the honour to draw your attention to the circumstances connected with a steamer called the "Talisman" hoisting the British flag, which appears to have been engaged in practices constituting grave breaches of the law. The following charges have been preferred against the "Talisman" by the Peruvian Government: carrying clandestinely arms and munitions of war with the view of creating a disturbance in Peru; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and making a prisoner of the Captain of the Port of Pacasmayo, on the 23rd instant, and armed resistance to the local authorities. It would appear that the master of the "Talisman," named Haddock, went ashore at Pacasmayo with a boat's crew, and was detained by the authorities, and that subsequently on some Peruvian soldiers approaching that vessel, in which there were many passengers said to be engaged in a revolutionary enterprise, they were fired upon and forced to return to the shore. The Captain of the Port, who had previously gone on board, was made prisoner and taken to sea. In the Mercantile Navy List, the "Talisman" is described as a screw steamer of 135 tons register, belonging to the port of Glasgow. I have communicated these facts to the several officers of Her Majesty's service on the Pacific coast, and as it is not unlikely that the "Talisman" will visit some port in Colombia, I have deemed it right to place you also in possession of this information.

I have, &c.
(Signed) EDWARD MARCH.

[A similar letter to the above was also addressed to the Minister Resident and Consul-General at Quito.]

Inclosure 10 in No. 22.

Mr. March to Rear-Admiral Cochrane.

Sir,

Lima, October 31, 1874.

I HAVE the honour to report, for your information, that I have received a despatch from the Peruvian Government, stating that a vessel called the "Talisman," sailing under the British flag, has been committing acts of piracy in the port of Pacasmayo. The charges preferred against the "Talisman" are: carrying clandestinely arms and munitions of war, with the view of creating a disturbance in Peru; using the British flag for that purpose; falsification of the ship's papers and clearance; capturing and making a prisoner of the Captain of the Port of Pacasmayo on the 23rd instant, and armed resistance to the local authorities.

In view of the serious nature of these charges, I lost no time in communicating with the Commander of Her Majesty's ship "Fantôme," which had a day or two previously arrived at the port of Callao. In the absence of any definite information

as to the movements of the "Talisman," we decided to await the arrival of the mail steamers from north and south, which were due in a few hours, in the hope that they would bring some news of the vessel in question, and thus enable Commander Long to act with some reasonable hope of success.

The case of the "Talisman" presents some points which I think should not be lost sight of. That she is, or was at the time of the alleged outrage, a British ship is, I fear, beyond doubt. She is described as a screw steamer of 135 tons register, with a capacious saloon, and is said in the Mercantile Navy List to belong to Glasgow. The President has stated to me that from the time of the "Talisman's" arrival at Coronel in July, he had been kept well acquainted with her operations and designs. Thus, you will perceive that the Peruvian authorities had ample opportunity of learning the character and aims of the "Talisman" and her revolutionary projects; and that not only did they not succeed in thwarting her movements, but actually failed in enforcing the law whilst lying in a Peruvian port within almost reach of one of their most powerful ironclads, the "Independencia." Much indignation has naturally been created here by this incident, and if the facts be correctly stated, as I fear they are, it is much to be regretted that, for the sake of gain, British subjects should be found engaged in furthering the designs of revolutionary parties and assisting the disturbers of the tranquillity of the country by covering their proceedings with the British flag.

I have communicated these facts to the several officers of Her Majesty's service on the Pacific Coast, and, as it is not unlikely that the "Talisman" will visit some port north of Peru, I have deemed it right to place you also in possession of this information.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 11 in No. 22.

Señor Aguero to Mr. March.

(Translation.)

Foreign Office, Lima, October 31, 1874.

I HAVE had the honour of receiving your very estimable despatch of yesterday, in which you are pleased to communicate to me that, in view of the offences committed under the English flag by the steamer "Talisman" in the port of Pacasmayo, you have called the attention of Her Britannic Majesty's Naval Command and of the Diplomatic Agents and Consuls in the Pacific, in order that they may not omit any effort to capture the said vessel for the acts of piracy of which those on board have made themselves guilty.

Very satisfactory is for my Government the frank and loyal conduct which, in view of this disagreeable affair, you have deemed proper to pursue, anticipating all foreign suggestion, and thus rendering due respect to the law of nations, which Her Britannic Majesty's Government has always been the first to proclaim.

In reiterating to you the most complete thanks in the name of my Government for the measures indicated, I have, &c.

(Signed) J. DE LA RIVA AGUERO.

No. 23.

Mr. March to the Earl of Derby.—(Received December 15.)

My Lord,

Lima, November 9, 1874.

IN continuation of my despatch of the 2nd instant, I have the honour to report to your Lordship that the "Talisman," engaged in a revolutionary expedition on the coast of Peru, has been captured by the Peruvian ship-of-war "Huascar," and brought to Callao for adjudication.

It appears that, on the night of the 1st instant, the "Talisman" entered the port of Pacocha and landed Señor Piérola, the leader of the insurrectionary movement, and some sixty of his followers. The troops stationed there, about twenty in number, were taken by surprise and quickly overpowered. The insurgents then commenced discharging the arms and munitions of war composing the cargo of the "Talisman," but, before this operation could be completed, the "Huascar" hove in sight and made a prize of the vessel. Piérola and his band then seized the material of the railway

station, and started for Moquegua, where it seems they have established themselves. None of the party have been taken, and only the crew of the "Talisman" are prisoners. The documents found on board have not yet reached the Commandant-General of Marine at Callao, but on his receiving them I shall be in a position to ascertain by what right that vessel was flying the British flag, the number and names of the crew, their nationality, and other circumstances connected with the expedition. I will also be watchful of the interests of such British subjects as may be involved in the proceedings about to be instituted in the matter by the Peruvian Government.

It is said that the "Talisman" cleared from Cardiff with her warlike stores, and that during her several weeks' stay in River Plate none of the crew were permitted to land or hold communication with shore. It would thus appear that the expedition was a well matured one, and that those on board were acquainted with its object and the risks they incurred.

I have, &c.
(Signed) EDWARD MARCH.

No. 24.

Mr. March to the Earl of Derby.—(Received December 15.)

My Lord,

Lima, November 11, 1874.

WITH reference to the despatch which I did myself the honour of addressing to your Lordship on the 13th ultimo, I now beg to state that the case of the two British subjects Bell and Sterling will shortly come on for hearing before the Supreme Court of Peru. The delay is caused by the desire of the Attorney-General to examine minutely the several points raised in a communication made by me to the Peruvian Government, a copy of which I have the honour to inclose.

From the tenor of my interviews with the Minister for Foreign Affairs and the Attorney-General, I have good reason to hope that the sentence passed upon Bell and Sterling will not be confirmed.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 24.

Mr. March to Señor Aguero.

Excellency,

Lima, October 19, 1874.

IT is with much regret that I find myself compelled to invite your Excellency's attention to the case of the two British subjects Bell and Sterling charged with being accessory to the death of a native of Peru, on the occasion of a dispute which occurred in a workman's camp at Challape, on the 8th of July, 1873. The heavy sentence of fifteen years' imprisonment, which has just been pronounced against them, appears to have resulted from the case being presented to the Superior Court in such a form as to fill me with apprehension lest there should have been an unfortunate miscarriage of justice.

I therefore feel it my duty to offer, as I am sure it is your Excellency's desire to receive, the following statement, which will be found sufficiently important to bring about, if not the release of Bell and Sterling, at least a reconsideration of their case, with a view to their obtaining a fair trial, which, as I shall be able to prove to your Excellency, they have not yet had.

From a perusal of numerous documents, and the information I have gathered from various sources, it appears that on the 8th of July, 1873, a Greek, employed on the Oroya Railway, complained to James B. Rowe, superintendent overseer of the works, that a native of Peru, named José Maria Robles, owed him a dollar. Rowe went to the house where Robles lodged, a scuffle ensued, Rowe was stabbed, and Robles escaped to the hills. He was pursued by most of the workmen, who had by this time gathered in large numbers; and after a lengthened chase he was captured. Rowe then took him in charge, with the intention it is said of conducting him to the nearest Magistrate; but whilst crossing the Rimac, the prisoner tore himself from Rowe's grasp and jumped into the river, leaving a piece of his shirt collar in Rowe's hand. In that part the river runs with great force over a bed of large boulders

of granite. Robles swam well for some distance; but about 300 yards below the bridge he was drawn into some rapids and disappeared. Two days afterwards his body was found, with a wound in the head: and it was this circumstance that led to the apprehension of Findlay Downie, Joseph Sterling, Juan Borjia, and James Bell, and their imprisonment in the fearful place which served for the prison of Matucana. This painful incarceration continued from day to day, until January of this year, when Sterling was discharged from custody, with the remark from Judge Cáceres, that he did not think him guilty; and Bell was released on the simple assurance of another British subject that he would be responsible for his reappearance if necessary. This release in all probability saved the lives of Bell and Sterling, which had been seriously endangered by the privations and hardships they had undergone in their protracted confinement. Fortunately for the Peruvian citizen Borjia, he had already been set at liberty; and Downie had, by some means or other, succeeded in gaining his freedom.

That nothing grave had, in these six months, been adduced against Bell and Sterling is evident, since both had been set at liberty. They, therefore, sought the protection of this Legation, and made a move with a view to obtaining some compensation from the Peruvian Government for the illegal imprisonment to which they considered they had been subjected. To leave the country had never suggested itself to them. On the contrary, after imparting their grievance to the British Minister, they returned to their work on the scene of the tragic occurrence, a circumstance worthy of notice, as favourable to the assumption of their innocence. No sooner, however, had they done so, than they were arbitrarily re-arrested, and again consigned to the prison at Matucana,—a prison which your Excellency is aware was of so fearful a nature, that it formed the subject of serious complaints at the time, and has since been closed, as unfit for the habitation of human beings. This was towards the end of last January, and about six months later, nearly one year after their first arrest, they were sentenced to six years' imprisonment, and removed to the Hospital Jail at Lima.

This sentence was passed upon them by a Judge against whom an action for the maladministration of his office was actually pending, by order of the Supreme Court of Peru, dated 23rd July, 1874. I abstain from commenting upon this extraordinary fact, feeling sure that your Excellency will not fail to appreciate its importance.

Thus far I have shown your Excellency that an unreasonably long time—nearly one year—transpired between the first apprehension of Bell and Sterling and their conviction, and that during the whole of that period, with the exception of a fortnight or so, they were confined in a place which I need not again describe. That Downie, who, in the opinion of the Judge, was certainly not less guilty than Bell and Sterling, was allowed to escape; that Borjia, a Peruvian citizen, had already been set free, and that it was only after having lodged a claim for damages for false imprisonment that Bell and Sterling, the latter of whom had undoubtedly been discharged as innocent, were re-arrested and finally sentenced by a Judge against whom the newspapers of the country were teeming with accusations and who at the time was actually under the ban of the Tribunals of his country. But this is not all. Bell being a youth under eighteen years of age, should have had a *curator ad litem* assigned to him during the trial. This provision of the law not having been complied with, the proceedings against him are, by Article 159, paragraph 3, of the “Código de Enjuiciamiento Penal,” null and void. This fact was duly pointed out to the Superior Court by the prisoner's Council, but its only effect appears to have been the discovery in Bell's declaration, of an erasure and alteration in the word expressive of his age. (See Declaration of Bell in p. 13 of the proceedings.) From a very careful examination of this document, I feel convinced that the word thus altered was “diez-y-siete” (seventeen). Again, Article 32 of the same Code enacts that, in cases in which an accused is ignorant of the Spanish language, his declaration shall be taken through an interpreter. This was not done in the case of Bell and Sterling, though they were both in that position.

It would further appear from independent testimony that only one of two witnesses were examined for the defence, although several had appeared before the Judge for that purpose.

Under these circumstances I must earnestly solicit a reconsideration of the case of these two British subjects and a speedy termination of the proceedings, proceedings which I think your Excellency will admit have already extended over an unreasonably long time and have been the cause of much unnecessary suffering.

I avail, &c.

(Signed) EDWARD MARCH.

No. 25.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, December 28, 1874.

I HAVE received your despatches of the 2nd, 3rd, and 9th ultimo, relative to the case of the "Talisman," which vessel is stated to have been recently engaged under the British flag in proceedings on the Peruvian Coast hostile to the Government of Peru; and I have to state to you that I approve your proceedings in the matter, as reported in your above-mentioned despatches.

I shall not fail to communicate your despatches to the Board of Trade, for such steps as the circumstances of the case may require.

I am, &c.
(Signed) DERBY.

No. 26.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, December 28, 1874.

I APPROVE the communication made by you to the Peruvian Government on behalf of the two British subjects, Bell and Sterling, a copy of which was inclosed in your despatch of the 11th ultimo.

I am, &c.
(Signed) DERBY.

No. 27.

Mr. March to the Earl of Derby.—(Received December 30.)

My Lord,

Lima, November 19, 1874.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 15th ultimo, transmitting copy of a letter from Mr. Charley, M.P., inclosing an affidavit sworn by Mr. Rowe, the person chiefly concerned in the disturbance which led to the apprehension of Bell and Sterling, and beg to state that I have taken the necessary steps to have the affidavit in question laid before the Court in which the case is about to be reconsidered. I have also done the same in regard to four other declarations upon oath taken by me from witnesses whom I discovered living in the interior of Peru, and whose presence, in the event of the late sentence being quashed and the proceedings recommencing *de novo*, will be of the utmost importance.

I may inform your Lordship that yesterday I had a conversation with the Attorney-General, from the tenor of which I still entertain the hope that the result of the pending appeal to the Supreme Court will not be entirely unfavourable.

I have, &c.
(Signed) EDWARD MARCH.

No. 28.

Mr. March to the Earl of Derby.—(Received December 30.)

My Lord,

Lima, November 24, 1874.

I HAVE the honour to report to your Lordship that in accordance with the instructions conveyed to me in your Lordship's despatch of the 8th ultimo, I addressed on the 18th instant a communication to the Peruvian Government, a copy of which I herewith inclose, remonstrating on the part of Her Majesty's Government on the conduct of the authorities in their treatment of Mr. Laurence Higginson, and demanding at the same time an immediate ample apology, as also full compensation for Mr. Higginson.

I have this day received a note from the Minister for Foreign Affairs, stating that in order to give me a reply he is about to obtain some information which he deems

indispensable, when he will submit the case to the President and his Council. I have the honour to transmit a copy and translation of this note.

The President is now in the south engaged in quelling the revolution which has broken out in the country, and his Excellency's return to Lima is therefore uncertain.

Should my despatch not be further noticed after the lapse of a reasonable time I will reiterate the demand which your Lordship has instructed me to make upon the Peruvian Government.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 1 in No. 28.

Mr. March to Señor Aguero.

Excellency,

Lima, November 18, 1874.

ON the 20th of July last Her Majesty's Chargé d'Affaires in this capital had the honour of calling your Excellency's serious attention to the circumstances under which Mr. Laurence Higginson, a British subject, was taken out of the British steamer "Santiago" in the Bay of Callao by order of the port authorities and thrown into prison, where he was detained several days.

Your Excellency confined your reply to stating that directions had been given for the release of Mr. Higginson, and subsequently, upon further representations from this Legation, your Excellency, whilst not repudiating the charges they involved, denied verbally the responsibility of the Government in the matter, thus leaving Mr. Higginson without redress of any kind for the wrongful imprisonment he had suffered and the grievous injury done to him.

I have now, on the part of Her Majesty's Government, to remonstrate in the strongest manner against these proceedings. The conduct of the Peruvian authorities in summarily removing from a British ship and consigning to a felon's prison a member of the crew, who, besides being innocent, could not, under any view of the offence alleged against him, have been amenable to the jurisdiction of this country, and the general treatment he received constitute, in the opinion of Her Majesty's Government, a gross outrage upon a British subject.

Under these circumstances, and acting upon the instructions I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, it becomes my imperative duty to demand, as I hereby do, an immediate ample apology from the Peruvian Government in this matter, and full compensation for Mr. Higginson.

Awaiting your Excellency's reply for transmission to Her Majesty's Government,
(Signed) EDWARD MARCH.

Inclosure 2 in No. 28.

Señor Aguero to Mr. March.

(Translation.)

Ministry of Foreign Relations, Lima, November 20, 1874.

I HAVE had the honour of receiving your note of the 18th instant, referring to the proceedings adopted by the authority of the port of Callao in respect to the British subject, Laurence Higginson, who was removed from the English steamer "Santiago" in the latter part of July of the present year.

In order to give you a reply on the subject I am going to ask for information which I deem indispensable, and when this is obtained I will submit the affair to the deliberation of his Excellency the President and his Council, which, as you are aware, cannot take place just now.

I have, &c.
(Signed) J. DE LA RIVA AGUERO.

No. 29.

Mr. March to the Earl of Derby.—(Received December 30.)

My Lord,

Lima, November 27, 1874.

WITH reference to my despatch dated the 9th instant relative to the ship "Talisman," I have now the honour to report that from a copy of the certificate of

registry of that vessel, which has been furnished me by the Peruvian Government, I find that William Lang, Martin Orme, and Thomas Blackwood, are mentioned as the owners of the steamer in question, and that an indorsement dated "Custom-house, Glasgow, 5th May, 1874," certifies that George Barnes Haddock is master. Notwithstanding this certificate of British registry, which, as your Lordship may be aware, is not a document of title or the means of proving ownership, I am still of opinion that the "Talisman," previous to her expedition, was the property of Pierola and his band. The "Talisman" cleared from Glasgow on the 6th of May last, and in the ship's articles the voyage is thus described: "Glasgow, *viâ* Cardiff, Monte Video, and or, if required, to any port or ports in South America, North or South Pacific, Australasian Colonies, Indian or China Seas, Mauritius or West Indies, British North America or States of America, until the ship returns to a final port of discharge on the Continent of Europe, and or the United Kingdom, with liberty to call at any port for orders. Probable period of engagement two years."

From the Consular indorsements on the articles it appears the "Talisman" touched at Buenos Ayres, Coronel, Talcahuano, and Caldera. I have the honour to inclose Mr. Haddock's statement and a list of the crew. It is difficult to believe that the master was ignorant of the destination of the steamer under his command, or the purport of the warlike stores on board; and the same remark must, I fear, apply to the members of the crew, though not, perhaps, with so much force. These points will, doubtless, be elucidated in the course of the trial, which I will carefully watch. The master, second mate, and three seamen were first incarcerated at San Pedro, near Pacasmayo; but within the last few days they have been removed to the gaol at Callao, where also are confined the two engineers. I have visited the place of their imprisonment, and find that the men are fairly well treated. No difficulty is thrown in the way of their communicating with the Consulate, and the authorities have hitherto attended promptly to every representation I have made to them on the subject. Most of the crew of the "Talisman" were, on their apprehension, confined in the ship-of-war "Huascar," and as this vessel appeared to be cruising on the coast, I pointed out to the Peruvian Government the irregularity of such indefinite detention. This has been attended to, and the men will, I am told, be at once forwarded to Callao.

In view of all the circumstances of this case, the apparent complicity of the master, and the outrages committed in Peruvian waters by those on board the "Talisman," outrages which have led to the troubles now agitating the country, I have abstained from further interference than was absolutely necessary for the proper treatment of British subjects.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 1 in No. 29.

Mr. Haddock to Mr. March.

Sir,

Casa Matas, Callao, November 20, 1874.

I BEG to embrace this the first opportunity I have had in addressing you relative to the voyage of the steamship "Talisman."

We left Glasgow on or about the 5th of May last, and cleared out from that port for the River Plate, *viâ* Cardiff, where I arrived about the 9th, and left on or about the 19th, having taken on board a supply of coal and about 1,000 packages of merchandize, arms, ammunition, clothing, &c., with instructions from the agent of the steamer, Messrs. Moran, Galloway, and Co., to proceed to the River Plate, and from there to the west coast of South America, calling at Coronel to take coal, and there await the instructions of Mr. Bulwer,* who, according to Messrs. Moran, Galloway, and Co.'s letter of instructions to me, was to have the absolute disposal of the ship and cargo when on this coast.

I remained at anchor in Coronel for a considerable time, and for the sake of getting water and provisions more conveniently, I took the steamer round to Talcahuano, on my own responsibility, advising Mr. Bulwer (who was in Valparaiso) of my movements. After remaining some days in Talcahuano I received orders from Mr. Bulwer, by letter, to proceed and clear ship for Vancouver Island, British Columbia,

* The assumed name of one of the leaders of the insurgents (Bogardus).

calling at St. Antonio. At St. Antonio I received orders from the same person to call at Quinteras, where I should receive some passengers. I arrived at Quinteras on or about the 11th ultimo, and embarked forty-nine passengers,* with their baggage. I took all my papers on shore at both places, but there was no official to receive them.† Mr. Bulwer was one of the passengers.

At Quinteras I was ordered by Mr. Bulwer to proceed on my voyage, calling at Caldera for coal and a further supply of provisions.

I arrived at Caldera on or about the 14th ultimo, and left the next day, having taken on board about 100 tons of coal, and provisions necessary for the voyage, and proceeded on my course for Vancouver Island; and when nearly off the island of San Lorenzo Mr. Bulwer ordered me to shape a course for Pacasmayo, as he wished to call there. I arrived at that port on the morning of the 23rd ultimo, at about 3 A.M., and anchored.

The Second Captain of the Port visited the steamer about 7 A.M. I showed him my clearance from Caldera, which he said was all right, but advised me to go on shore to see the Captain of the Port. I went with him on shore. I had orders to inquire if coal could be had; and I also took with me a drawing of a piece of brass which I was to get, if it could be made the same day. As soon as I arrived on shore I found I could not get coal, only wood, and that they could not make the brass in less than three days. I was also to see a friend of Mr. Bulwer's (I don't remember his name), who I was to invite on board.

I then wished to return on board, and ordered a surf-boat to take me off; but after waiting some time I was informed that the Captain of the Port had ordered no boat to leave the beach. I then went to the mole to hail the steamer to send the boat, which they did, with the second officer and three sailors; and when I was in the act of going into my boat I was stopped by four men armed with revolvers. The Captain of the Port then came on the mole to me, and said he wanted to see my certificate, ship's register, ship's articles, so I told the second officer to go on board and get them, giving him all my keys. I was then ordered by the Captain of the Port to go with him to his house, and wait the return of the second officer with the papers mentioned.

The Captain of the Port left me and went on board, leaving me in charge of an officer and some soldiers. When in the house I heard some firing, like musketry or pistols going off. I asked the officer what it was, and he replied, "¿Quién sabe?" I then got up from a couch, and went to the door, when I saw a launch full of soldiers, about halfway from the shore to the steamer, coming towards the shore. A short time afterwards I was surrounded by soldiers and taken to prison. When I got there, to my surprise, I found the second officer and three men shackled by their legs to an iron bar, suffering very much from bruises they had received from the soldiers over their heads and backs when they were taken prisoners.

The next morning, 24th, we were removed to San Pedro, and there imprisoned in a filthy hole, where there were six criminals already, and we were not allowed even a mat to lay down on. I asked for a sheet of paper, pen, and ink, which I got, and wrote a letter to Captain Wilson, the Vice-Consul at Callao, the first and only person I could think of at the time. The next day I thought of writing to your Excellency, but was refused the means, an order having been given that neither pen, ink, nor paper were to be allowed, and that no person whatever, except the soldier on guard, was to be admitted to the grating. I was very ill with diarrhoea; also the second officer and one of the men. I asked the soldier to send a doctor, but no heed was taken; but I managed, through paying an exorbitant price, to get the turnkey to buy me a bottle of chlorodine and a bottle of castor oil, which, I am happy to say, had the desired effect. We were eighteen days without any supply from the authorities, and I had to buy water on several occasions from the soldiers, at the rate of 5 cents a bottle, and very bad water.

On the 2nd, 3rd, and 4th of this month I was taken to the Prefect's office to make a declaration, through the medium of an interpreter whose English I could not understand. The interrogator was a person dressed in the uniform of an officer in the Peruvian navy. His attitude and gestures were most threatening, showing me his revolver on several occasions. I was intimidated to sign this declaration, but I have no idea what was written.

I have been robbed of two boxes of wearing apparel and 50*l.* sterling, which was sent from the "Talisman" before she left the port of Pacasmayo. The men's clothes were sent on shore also, but they did not get them, although I made several inquiries about them after I left San Pedro.

* These proved to be the insurrectionary band.

† Because it was not a port of entry.

On the 12th instant we were taken on board the "Chalaco," and there kept close prisoners; the second officer and myself were brought here on the 18th instant.

My papers were all in order up to the time they were taken from me at Pacasmayo, consisting of clearance from Caldera, ship's register and articles, my certificate and clearance from Glasgow.

I am ready to answer any further questions which your Excellency may require to ask, and beg, &c.

(Signed) G. B. HADDOCK, *Master,*
Steam-ship "Talisman."

Inclosure 2 in No. 29.

PARTICULARS of Engagement of the Crew of the Ship "Talisman."

Reference No.	Signature of Crew.	Age.	Town or Country where Born.	Date and Place of joining the Ship.		In what Capacity engaged, and if Master, Mate, or Engineer, Number of his Certificate.
				Date.	Place.	
	1.	2.	3.	7.	8.	9.
1	G. B. Haddock ..	45	Sunderland ..	May 5	Glasgow ..	Master.
2	Henry Sibley ..	33	London ..	" 5	" ..	Mate.
3	John King ..	24	Ardrossan ..	" 5	" ..	Second Mate.
4	Alexander Martin ..	39	Stornoway ..	" 5	" ..	Carpenter.
5	Richard Powell ..	40	Hereford ..	" 5	" ..	Steward.
8	John Blair ..	25	Macduff ..	" 5	" ..	A.B.
10	William Ross ..	22	Banffshire ..	" 5	" ..	"
11	John Mc Lean ..	29	Argyll ..	" 5	" ..	"
12	Hubert Huyfers ..	19	Holland ..	" 5	" ..	O.S.
13	John Akers ..	19	London ..	" 14	Cardiff ..	O.S., 10,263.
14	Alexander Roberts ..	33	" ..	" 5	Glasgow ..	First Engineer.
15	John Wyly ..	33	" ..	" 5	" ..	Second Engineer.
16	James Scott ..	35	Greenock ..	" 5	" ..	Boiler-maker.
17	John Lorimer ..	47	Ayr ..	" 5	" ..	Fireman.
18	William Freeman ..	28	Glasgow ..	" 5	" ..	"
19	John Phillips ..	35	" ..	" 5	" ..	"
20	Andrew Bain ..	" ..	" ..	" 15	Cardiff ..	"
21	William Mc Millan ..	19	Greenock ..	" 5	Glasgow ..	"
22	Archibald Livingston ..	19	" ..	" 5	" ..	"
23	John Wallace ..	15	Paisley ..	" 15	Cardiff ..	Cabin boy.
24	Simon Borgrien ..	32	Newport ..	" 15	" ..	A.B.
25	John Kelly ..	22	Waterford ..	" 19	" ..	Fireman.
26	Louis Davis ..	40	Germany ..	July 1	Buenos Ayres ..	Cook.

No. 30.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 5, 1875.

I HAVE received your despatch of the 19th of November; and I have now to acquaint you that Her Majesty's Government approve the steps you have taken, as therein reported, on behalf of the two lads Bell and Sterling.

I am, &c.
(Signed) DERBY.

No. 31.

Mr. March to the Earl of Derby.—(Received January 14, 1875.)

My Lord,

Lima, December 4, 1874.

THE numerous and generally well-founded complaints which reach this Legation from British subjects who are kept in prison for indefinite periods without trial have necessitated my calling the attention of the Peruvian Government to the matter with

the view, if possible, of remedying so grievous a wrong. I have the honour to inclose a copy of my communication to the Peruvian Minister for Foreign Affairs.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 31.

Mr. March to Señor Aguero.

Lima, December 2, 1874.

Excellency,

I HAVE the honour to call your Excellency's attention to the frequency with which complaints are lodged at this Legation setting forth the hardship and injustice inflicted upon British subjects by their long detention in prison without trial. I have carefully inquired into the truth of these complaints and I regret to state that there appears no doubt of their accuracy.

In support of this view of the administration of justice in Peru I have to point out that, on the 7th of October, or nearly two months ago, I did myself the honour of addressing your Excellency on the subject of the incarceration of James Jones and Charles Morris, and the only answer I have received is that their case has been referred to the Minister of Justice. Jones appears to have been in jail nearly six months and Morris eighteen months, the former without trial and the latter unsentenced by any competent Tribunal.

On the 24th of October I brought under your Excellency's notice the case of the murder of John McKellar by a native of Peru named Manuel Helmes under circumstances of great deliberation. The details, as communicated to your Excellency, went to show that, though the murderer had been arrested and lodged in jail, he, by some means unexplained, regained his liberty and thus mocked justice. This crime seems very clear; therefore the escape of the murderer reflects, to say the least, seriously upon the administration of the laws of this enlightened Republic and the authorities who dealt with the matter.

I next come to the case of Stephen Thomas, whose incarceration since the 15th of October in the prison of Lima I communicated to your Excellency on the 14th of November, requesting that I might be informed of the reason for such imprisonment. To that despatch I have received no reply.

I might also very justly remark here upon the case of Bell and Sterling, but I abstain from doing so on this occasion, further than to note the curious coincidence that the Peruvian Borgia, accused conjointly with the British subjects Bell and Sterling, gained his liberty in the same way as his countryman Manuel Helmes accused of the murder of McKellar.

It is a notorious fact that accused persons are thrown into prison and remain incarcerated for unreasonable periods without being afforded any opportunity of defending themselves, and unless this state of things be remedied I apprehend nothing but trouble and complications. It is intolerable that British subjects who have come into this country on the faith of a due consideration of their interests and safety from arbitrary proceedings should be cast into prison and left there indefinitely without trial or the means of being heard in self-defence. The existence of such grave abuses cannot but lower confidence in the public institutions of Peru, so needful to the development of its resources and the progress of the country.

I have, &c.
(Signed) EDWARD MARCH.

No. 32.

Mr. March to the Earl of Derby.—(Received January 14, 1875.)

My Lord,

Lima, December 4, 1874.

IN accordance with the instructions contained in your Lordship's despatch of October the 10th, I have addressed a communication to the Peruvian Government expressing strongly the great regret of Her Majesty's Government at the delay that has taken place in dealing with the case of Captain Hall of the Pacific Steam Navigation Company's steamer "Arequipa," and the hardship which has thereby been caused to him. I have the honour to inclose a copy of my communication on the subject.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 32.

Mr. March to Señor Aguero.

Excellency,

Lima, December 3, 1874.

THE grave injury inflicted upon Captain Hall of the "Arequipa" by the delay in the administration of justice, as already brought under your Excellency's notice, is likely, if the proceedings be not immediately activated, to lead to his complete ruin. From one cause or another Captain Hall has been detained a prisoner at Callao for nearly six months, on what, judging from the inquiry held at the British Consulate is a false and trivial charge, and prevented from performing his duty to the Pacific Steam Navigation Company, in whose service he is. Justice ought not to be retarded, least of all in a criminal case, where a man who is presumably innocent is detained under arrest at the instance of another who is confessedly acting in bad faith. If the Judge is too busy with other work to attend to the case, some one else should be appointed. It is much to be regretted that the state of the law in this country should be on such an unsatisfactory footing, and in the case of Captain Hall I am instructed by the Earl of Derby to express strongly to the Peruvian Government the great regret of Her Majesty's Government at the delays that have taken place in dealing with the matter and the hardship which has thereby been caused to Captain Hall. Such an unjustifiable delay in the administration of justice, besides being in itself a wrong, cannot fail to have a most injurious effect upon the prosperity of Peru, by discouraging foreign trade with Peruvian ports and the employment of foreign capital in this country.

I have, &c.

(Signed) EDWARD MARCH.

No. 33.

Mr. March to the Earl of Derby.—(Received January 14, 1875.)

My Lord,

Lima, December 11, 1874.

ON the 1st instant the case of Bell and Sterling came on for hearing before the Supreme Court of Peru. There were seven Judges present, and I regret to inform your Lordship that the only modification in the sentence passed upon them by the lower Court has been to reduce the term of imprisonment from fifteen to nine years. I was present during the appeal, and the proceedings, so far as they transpired, seemed to be conducted with all the forms of justice. The Court found Bell and Sterling guilty of complicity in the death of Robles, and considering the manner in which the case had been presented by the prosecution, and the absence of proper supervision in the initiatory stage of the defence, it was open to them to come to that decision. It would, however, have been more in consonance with the spirit of justice, as understood in England, if, in view of the undoubted irregularities which had taken place in the course of the proceedings, the preponderating testimony thus obtained against the accused had been put aside and a new trial ordered. This course would have been particularly appropriate with a tribunal which admits of no appeal from its decisions. The finding has not yet been communicated to me, and as soon as this is done, which, I understand, will be in the course of a few days, it is my intention, since the laws of the country forbid any further recourse to law, to remonstrate with the Peruvian Government upon the imperfect trial, and urge upon them the propriety of their bringing the matter before Congress with the view of obtaining a remission of the sentence. My request will be based upon the following grounds, which I venture to hope are of sufficient importance to justify me with your Lordship in the step I propose taking and which I think should not be delayed. They are:—

1. That Bell and Sterling had both been liberated after a detention of about six months in prison, during which time nothing was proved against them.
2. That Downie, who would appear to have been one of the persons most implicated had, by some means, been allowed to regain his freedom, as also the Peruvian Borja.
3. That it was only after Bell and Sterling had lodged a claim for damages for false imprisonment that they were re-arrested, and active proceedings instituted against them.
4. That the Judge who acted in the matter was himself, at the time, under the ban of the Tribunals of his country, and therefore quite unfit to exercise judicial functions.

5. That the deposition of Bell had been criminally tampered with by an erasure, without which he could not have been convicted.

6. That, being under eighteen years of age, Bell should have had a *curator ad litem* appointed to him in accordance with Article 159, paragraph 3 of the *Codigo de Enjuiciamiento Penal*, and that, by this omission, the proceedings against him are, by the express enactment of the law, null and void.

7. That both Bell and Sterling should have had the assistance of interpreters, according to Article 32 of the same Code.

8. And finally, that the Judge is asserted to have refused the evidence of some of the witnesses produced for the defence, and, by unduly protracting the case, to have caused the loss of that of others who had left the country.

Most of these points I had already touched upon in my communication to the Peruvian Government, a copy of which I had the honour of transmitting to your Lordship in my despatch No. 65 of the 11th of November, and I much regret that the expectations I had formed from my conversations on the subject with the Attorney-General have been disappointed. It is true that the incidents of the erasure, liberation from prison and escape of Downie and Borjia from custody, were commented upon by the Court and orders given for the prosecution of the parties implicated in them, but I think your Lordship will be of opinion that the whole of the proceedings show sufficient irregularity, if not downright illegality, to warrant my calling the attention of the Peruvian Government in the sense already indicated.

Should the certificate of birth of Bell, for which I have applied to his father at Liverpool, prove him to be, as I believe, under eighteen years of age, there is every hope he will obtain his release.

In my communications to the Peruvian Government I have not failed to point out that my action on behalf of imprisoned British subjects is inspired solely by the wish to obtain for them a faithful investigation of their respective cases, and the substance as well as the forms of justice.

I have, &c.
(Signed) EDWARD MARCH.

No. 34.

Mr. March to the Earl of Derby.—(Received January 14, 1875.)

My Lord,

Lima, December 12, 1874.

WITH reference to my despatches relative to the "*Talisman*" and her master and crew, I have the honour to report to your Lordship that that vessel has not yet been submitted to trial. In the absence of any information on the subject, I addressed myself to the Peruvian Government in order to learn what steps, if any, had been taken in the matter. Shortly afterwards I saw by the papers that the "*Talisman*" had been dispatched to sea on Government service, whereupon, deeming such a proceeding highly irregular, I again had recourse to the Peruvian Minister for Foreign Affairs. My communication, a copy of which I have the honour to inclose, although acknowledged, was virtually left unanswered, since it omitted all allusion to the point upon which I had remonstrated. M. de la Riva Agüero confined his reply to stating that before legal proceedings could be instituted against the "*Talisman*," it was necessary to procure certain evidence from the neighbouring Republic of Chile, and that this was the justifiable cause of delay. He did not refer to the dispatch of the vessel to sea and the confiscation of the property on board.

On the other hand, it may be satisfactory to your Lordship to learn that my representations on behalf of the crew, a portion of whom had been removed to the "*Talisman*" to work her machinery, appear to be favourably regarded. But the result must remain uncertain.

The "*Talisman*" has since returned to Callao.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 34.

*Mr. March to Señor Aguero.**Lima, December 3, 1874.*

Excellency,

IT is announced in the public press that the "Talisman," described by your Excellency as a British ship, captured by a Peruvian man-of-war whilst violating the laws of the country, and brought to Callao for the purpose of being submitted to trial, has been dispatched by the Peruvian Government on a service connected with the revolution in the south. Further it is said that the merchandize found on board at the time of her seizure has been disposed of, and that some members of the crew who were in prison awaiting trial have been liberated and replaced on board for the purpose of navigating the ship.

In doing myself the honour of addressing your Excellency on this occasion, it will readily be believed that I am only prompted by an earnest desire of seeing justice properly administered. And, if the statements above made be correct, I venture to point out to your Excellency that serious irregularities have unfortunately taken place. The breaches of the law alleged against the "Talisman" and the circumstances by which the case is surrounded are not of a nature to induce me to interfere on her behalf beyond what is absolutely necessary to establish regularity in the proceedings and vindicate a principle far too important to be overlooked. A little consideration will, I think, make it manifest that the "Talisman" should not be appropriated and sent to sea under the Peruvian flag without having previously been declared a good prize by a properly constituted Court with all the formalities as well as the substance of justice, nor could the merchandize found on board of her be rightfully confiscated until after due process of the law, and I have no notice that this has been done. The question, as it appears to stand, presents, in my opinion, a very serious aspect, and involves a clear deviation from those well-known and acknowledged principles of procedure applicable to such cases. Besides the points already referred to, your Excellency must be aware that the certificate of British nationality with which the "Talisman" was, according to your statement, furnished, remains uncanceled so long as a proper trial is withheld, and the curious anomaly thus becomes evident of that ship going to sea with a British character and hoisting the Peruvian flag. Such a state of things requires no comment, and I will only say that I leave the whole responsibility of this, as well as any other illegal proceedings, to those whom it may concern.

I cannot close this communication without expressing my satisfaction at the release of some of the crew of the "Talisman," since it shows that the authorities have taken a lenient view of the case of a body of men notorious for their thoughtlessness and the facility with which they are led astray; and I sincerely trust that your Excellency will use your good offices in obtaining the same for the remaining prisoners.

I have, &c.

(Signed) EDWARD MARCH.

No. 35.

Mr. March to the Earl of Derby.—(Received January 14, 1875.)

My Lord,

Lima, December 14, 1874.

MORE than three weeks having elapsed since, in accordance with your Lordship's instructions, I demanded from the Peruvian Government an apology and full compensation for Mr. Higginson, and having received no reply, I have deemed it my duty to call the attention of the Peruvian Minister for Foreign Affairs to the subject in a communication, of which I have the honour to inclose a copy.

I should inform your Lordship that on the 7th instant I unavoidably met in the street M. de la Riva Aguero, who, in courteously recognizing me, referred to the case of Mr. Higginson, and positively stated that he would reply to my despatch of the 18th ultimo in the course of the week. This, as already stated, he has not done. From his further observations, it is apparent to me that the redress I have sought on the part of Her Majesty's Government will be refused on the plea that the Peruvian authorities were justified in the measure they adopted, since without them it could not be ascertained whether or not they had jurisdiction in the matter. I begged to decline arguing the point, and merely remarked that I attached no weight to a private intimation of this kind, and hoped that a just appreciation of the gravity of the

subject would induce his Government to arrive at the only decision which appeared open to them.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 35.

Mr. March to Señor Aguero.

Excellency,

Lima, December 14, 1874.

IT is with regret I am compelled to call your Excellency's attention to the note which, by order of Her Majesty's Principal Secretary of State for Foreign Affairs, I did myself the honour of addressing your Excellency on the 18th of last month, but I feel that the redress due by the Government of Peru in the serious matter therein referred to should not be further delayed.

I have, &c.
(Signed) EDWARD MARCH.

No. 36.

Mr. King to the Earl of Derby.—(Received January 11.)

My Lord,

18, Rosalind Street, Stanley Road, Bootle, January 10, 1875.

I BEG leave to address your Lordship under the following circumstances :—

My son John was engaged in Liverpool about six months ago to join the "Talisman" in Glasgow as second mate. He was led to believe she was destined for Monte Video and Valparaiso ; she called on the voyage out at Pernambuco and Buenos Ayres, then at Caldera, where my son wrote they were about to proceed to Vancouvers ; instead of that, however, they called at a port in Peru (Pacasmayo), where, after discharging a portion of cargo under some pretence, they were made prisoners. And by a letter from my son of 26th November, 1874, they were detained prisoners in Callao gaol. It would appear from the newspapers the "Talisman" was supposed to be engaged in some illegal expedition, but of the nature of which my son was, from the time of his joining her, altogether ignorant.

My Lord, as we are most anxious for our son's fate, we solicit the favour of your Lordship, informing us if Her Majesty's Government are aware of this untoward event, and whether anything has or will be done in this matter.

I remain, &c.
(Signed) JOHN KING.

No. 37.

Mr. Grieve, M.P., to Mr. Bourke.—(Received January 12.)

Sir,

Greenock, January 11, 1875.

I BEG leave to draw your attention to the case of the British steamer "Talisman," which recently sailed from this port for Monte Video, and ultimately round the Horn, and there seized by the Peruvian Government ; doubtless information of this has already reached the Foreign Office. I inclose herewith statement of the wife of the chief engineer ; of course that must be taken for what it is worth at present, and in the meantime I beg to bring the subject under your consideration, in the hope you will order prompt inquiry into the whole circumstances, with a view to the crew being set at liberty if it is proved they were ignorant of any violation of the Law of Nations.

I am, &c.
(Signed) JAS. T. GRIEVE.

Inclosure in No. 37.

*Mrs. Roberts to Mr. Grieve, M.P.*Sir, 60, *Drumfrochar Road, Greenock, January 8, 1875.*

THE following is a statement of all the facts that I can collect relative to my husband's connection with the steamship "Talisman":—

The "Talisman" was built by Messrs. Blackwood and Gordon, Port-Glasgow, for Mr. Martin Orme, 27, Robertson Street, Glasgow, and by them was employed to trade between Glasgow and the Highlands.

My husband became chief engineer of her in December 1872.

Mr. Orme in April last sold the "Talisman;" the sale was effected by commission; but besides their agents, the parties or party who bought the vessel were represented by a Mr. Fair, who superintended the fitting out of the vessel after the sale, and also engaged the crew.

Mr. Fair, learning that my husband had run with the "Talisman" for some time, tried every means to induce my husband to leave the service of Mr. Orme and enter that of the new owners of the "Talisman." He represented the vessel as bound on a trading voyage to Monte Video; he even came to me and wished me to assist him in prevailing on my husband to consent. Ultimately he gave his consent, and, along with the other two engineers, signed Articles in the Mercantile Marine Office, Glasgow, on the 5th May last for a voyage to Monte Video. He was to receive 20*l.* per month as wages; this amount is below the average for a voyage to South American ports.

After the arrival of the "Talisman" in South American waters, I received three letters from my husband, in each of which he complains bitterly of the manner in which he had been imposed upon as to the character of vessel, and also of the treatment to which he was subjected.

To show how completely my husband and the other engineers were in the power of some parties on board, and that they are in no way responsible for the acts of the vessel, I may state that, on discovering the true character of the vessel, they refused duty, but they were compelled to resume work by men who stood over them with loaded revolvers; also, from the time the vessel left Great Britain to the day it was captured by the Peruvians and my husband put in Callao prison, he was never on shore, nor did he receive any money.

I am, &c.

(Signed) AGNES ROBERTS.

No. 38.

Mr. Sibley to Lord Tenterden.—(Received January 18.)

My Lord,

3, *Lincoln's Inn Fields, January 16, 1875.*

I MUST apologise for troubling you, but the anxiety of myself and family for the safety of my son Henry Sibley, will, I trust, be a sufficient excuse.

My son, who was in the Merchant Service for 15 years in one employ, and afterwards, for about three years, in the service of the West African Steamship Navigation Company, and which latter service he left in consequence of an attack of yellow fever, and the climate generally not agreeing with his health; in each service he left with the highest testimonials as to his ability as a seaman and general good conduct.

About a year ago he engaged to join the steamship "Talisman" as chief officer, to trade from port to port on the western coast of South America, and I believe he had no knowledge whatever in the subsequent arrangement by the owners or Captain for the conveyance of arms and ammunition for the Insurrectionists against the Peruvian Government; the vessel and crew were, I have learnt from the newspapers, seized by a man-of-war vessel of the Peruvian Government, and what has become of my son has been a mystery ever since the capture, now three months ago. You may, my Lord, imagine the anxiety of his wife and parents, and I shall be much obliged by any information you can give me respecting his present position.

I am, &c.

(Signed) HENRY SIBLEY.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 18, 1875.

I INCLOSE, for your information, copies of letters from Mr. Grieve, M.P.; and from Mr. King,* relative to two of the crew of the "Talisman," who are now imprisoned at Callao on a charge of being engaged in the recent attempted revolution in Peru.

You will continue to watch the case, and to do what you properly can to secure the proper treatment and a fair trial for the British subjects taken on board the "Talisman."

I am, &c.

(Signed) DERBY.

P.S.—I also inclose copy of a letter from Mr. Henry Sibley, inquiring about his son, mate of the "Talisman."[†]

D.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 19, 1875.

I HAVE to state to you that I approve the steps you have taken to obtain satisfaction from the Peruvian Government in the case of Mr. Higginson, as reported in your despatches of the 24th November and the 14th ultimo.

I am, &c.

(Signed) DERBY.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 19, 1875.

I APPROVE your note to the Peruvian Government, copy of which is inclosed in your despatch No. 18 of the 4th ultimo, calling attention to the length of time during which British subjects in Peru are kept in prison without trial.

I am, &c.

(Signed) DERBY.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 19, 1875.

I APPROVE your note to the Peruvian Government, copy of which is inclosed in your despatch of the 4th ultimo, remonstrating against the delay that has taken place in dealing with the case of Captain Hall of the Pacific Steam Navigation Company's steamer "Arequipa."

I am, &c.

(Signed) DERBY.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, January 19, 1875.

I HAVE received your despatch of the 11th ultimo, reporting that the Supreme Court of Peru has reduced the sentence upon Bell and Sterling from fifteen to nine

* Nos. 36 and 37.

* No. 38.

years' imprisonment, and that there being no further legal appeal, you propose to urge the Peruvian Government to bring the matter before Congress, with a view to obtaining a remission of the sentence.

I have to state to you, in reply, that I approve the course you propose to adopt in the matter.

I am, &c.
(Signed) DERBY.

No. 44.

Mr. March to the Earl of Derby.—(Received January 28, 1875.)

My Lord,

Lima, December 19, 1874.

ANTICIPATING the solicitude which Her Majesty's Government will, perhaps, feel in the condition of the master and crew of the "Talisman," imprisoned in a country where places of confinement are notoriously faulty, and the administration of the law is so irregular, I availed myself of the first opportunity, after the departure of the last mail to visit the prison at Callao, and inquire fully how these men were lodged and treated. I had already done so on more than one occasion, but this was the first time I could see the whole of the crew since their landing from the Peruvian ship-of-war "Huascar." I was received with every attention by the jail authorities, who allowed me to converse freely with the master and crew, and examine the part of the jail occupied by them.

The master, G. B. Haddock, I found in a room contiguous to the main building but quite apart from the rest of the prisoners. He appeared somewhat dejected, but did not complain of anything. The men were in the common prison which, though not comparable to similar establishments in England, was not so bad as some I have seen in Spain and other parts of the world. They lamented the loss of their wearing apparel, which had been taken from them at the time of their capture, and the want of proper bedding. They declared they were ignorant of the filibustering expedition on which the "Talisman" was engaged, and that they had been misled. Four of the men had mattresses, the rest rugs and blankets, arranged upon an inclined boarding erected for a sleeping place, similar to what is seen in guard-rooms for soldiers. On leaving the prisoners, I called upon the Judge charged with the case, who was at much pains to explain the delay in the beginning of the trial, which, he said, had been caused by the fact that the arrests had been made in different parts of Peru, and the absence of an efficient interpreter. He said that the proceedings had now commenced, and that, notwithstanding the immense amount of work thrown upon his hands by the late arrests in the revolutionary movements, he would give this case priority over all others. I then visited the Commandant-General of Marine who, in expressing his willingness to do all he could for the prisoners' comfort, ordered, in my presence, the naval officer now in charge of the "Talisman," to send to the jail the mattresses I had requested. This order has been duly executed. During the interview, a telegram arrived from the Minister for Foreign Affairs on the same subject, from all of which and the general conduct of the authorities, I think they are desirous of meeting my representations in a conciliatory and fair spirit. I have not failed to avail myself of every opportunity to point out to them the facility with which seamen, as a rule, are led astray, and imparting my impression that, in this instance, most, if not all of them, have been the victims of misrepresentations, and that, had they known the true object for which they were engaged, they would not have joined the "Talisman."

I have, &c.
(Signed) EDWARD MARCH.

No. 45.

Mr. March to the Earl of Derby.—(Received January 28, 1875.)

My Lord,

Lima, December 24, 1874.

IN continuation of my despatches relative to the "Talisman," I have now the honour to report that the Peruvian Minister for Foreign Affairs has replied to my communication of the 3rd instant—a copy of which I inclosed in my despatch of

the 12th instant—as also to a note which I addressed to him respecting the release of the engineer of that vessel for the purpose of working her machinery.

From M. de la Riva Agüero's reply, a translation of which I have the honour to inclose, it would appear as if the "Talisman" had been despatched to sea with the sole object of proceeding in quest of the crew who were prisoners on board the Peruvian ship of war "Huascar." In truth, however, the "Talisman" was employed as a Government transport, for she took on board at Callao the Minister of War and some troops, landing the former at Mollendo and the latter at Pacochas, Consul Graham, writing from Islay on the 5th instant, states: . . . "The 'Talisman' also sailed from Mollendo this morning with eighty artillerymen, some mules, &c."

With reference to the chief engineer, it appears from his statement to me, that instead of his voluntarily lending himself to go on board the "Talisman" to work the machinery, as represented by the Peruvian Minister for Foreign Affairs, he was taken from his sleeping-place in prison at 11 o'clock at night and, without previous notice or the alternative of refusing, was unceremoniously put on board the "Talisman" and compelled to undertake the management of the machinery. On the vessel's return to Callao the engineer was again incarcerated, and his subsequent treatment in jail has been in all respects similar to what he had previously experienced, nor has he received any remuneration for his services.

I remonstrated against this irregularity in a despatch to the Peruvian Government, a copy of which I have the honour to inclose, but from the observations of M. de la Riva Agüero, your Lordship will perceive that it is the intention of the authorities to place the engineer upon his trial in the same manner as the rest of the prisoners.

I have pointed out to the Minister for Foreign Affairs the material difference between his statement and the engineer's account of his forced service on board the "Talisman," but have abstained from any further discussion of the matter until your Lordship is made acquainted with the circumstances of the case.

I have, &c.

(Signed) EDWARD MARCH.

Inclosure 1 in No. 45.

Señor Agüero to Mr. March.

(Translation.)

Lima, December 18, 1874.

AFTER taking the necessary information from the Ministry of War and Marine touching the causes which determined the departure of the "Talisman" for the south, and the state of the legal proceedings to which the said vessel has been subjected, upon which points you are pleased to call my attention in your estimable despatch of the 15th (3rd) instant, I proceed to give you the due answer, it being agreeable to me to be able to assure you at once that the respective legal proceedings are being conducted according to the laws of the country and in conformity with the principles generally adopted in such matters.

You know that the "Talisman" captured by the "Huascar" in the Bay of Pacocha was brought to Callao by seamen belonging to the latter, and that immediately after her arrival a prolix inventory was made of all that was on board, all her sea papers being at the same time sealed and deposited. As her master, Captain Haddock, was then at Pacasmayo, where he was apprehended, it was not possible to immediately begin judicial steps, for it was necessary to await the arrival of the "Sumario," which had been ordered to be prepared there; and as regards the declarations which the other prisoners had to give, it was not easy to obtain them immediately, for those individuals, whose removal to Callao had to be effected with all security, continued on board the "Huascar," which, through the exigencies of the service, had to remain in the south. It was therefore necessary to issue judicial despatches to the Judge of Islay and other southern ports, and, in order to avoid the delays and inconveniences which would necessarily follow such measures, it was decided, as being the most expeditious course, to bring the prisoners in the said "Talisman," which sailed with that object, taking on board one of her engineers, who voluntarily lent himself for this service in consideration of payment, and because he only was acquainted with the details of the machinery of the steamer.

As you see, there has been no more delay in the initiation of the legal proceedings

than the strictly indispensable one, and this has been caused solely by the circumstances which I have just noted.

As regards the employment of the engineer, you were, doubtless, ill-informed when you were made to understand that he had been placed at liberty; such lending of services could not import that individual's absolution, which alone depends upon the sentence which the Judge, who has charge of the case, may, in view of the proceedings, give; the executive being unable, and without right, as is the case with all Governments of constitutional countries, to interfere in the administration of justice or consequently order the discharge of a person under trial.

If the "Talisman" has been made use of before being declared a good prize, it has been owing to the impossibility of the Government to dispose of any other ship of war—the only kind which offered sufficient security for the removal of the prisoners; but this use is permitted according to circumstances, and the Government of Peru could answer in any case for the value of the ship if any damage had been sustained by her in the short voyage on which she proceeded under the above-mentioned circumstances.

I will not conclude the present note without expressing to you that the trial of the "Talisman" is now far advanced, and that, in view of the leniency of our laws, it is to be hoped that the greater part of her crew, who undoubtedly have been led astray by deceit or are victims of their own ignorance, will be declared free; those who have been seriously implicated and are responsible being alone punished.

I avail, &c.

(Signed) JOSE DE LA RIVA AGUERO.

Inclosure 2 in No. 45.

Mr. March to Señor Aguero.

Excellency,

Lima, December 15, 1874.

WHEN I had the honour of addressing myself to your Excellency on the 3rd instant, I was under the impression that a portion of the crew of the "Talisman" had been liberated, and whilst thanking the authorities for the steps which I was led to believe they had taken, I ventured to solicit the same action for the rest of the prisoners, since there was no difference in the offences imputed to them.

Your Excellency was so good as to acquaint me in reply with the pleasure you would have in recommending my request to the Minister of Marine, to whom my communication had been referred. I beg to thank your Excellency for the generous disposition you evinced towards those misguided men so easily led astray and deceived, and for the courteous spirit in which your Excellency has entertained my application on their behalf. This being so, your Excellency will share the surprise I experience on discovering, as I now do, that only the chief engineer of the "Talisman" had been taken out of prison for the curious reason that his services were required to work that steamer's machinery when ordered to sea by the Peruvian Government, and that on his return he was actually reincarcerated.

I feel that your Excellency's well-known sense of justice will be shocked at this evident trifling with the prisoner's condition, and that the Peruvian Government, on becoming acquainted with it, will immediately order that man's release. I abstain from commenting upon this untoward and no doubt unintentional irregularity, unless your Excellency should require further details, when it would be seen that the matter is even more serious than it at present appears.

I have, &c.

(Signed) EDWARD MARCH.

No. 46.

Mr. March to the Earl of Derby.—(Received January 28.)

My Lord,

Lima, December 26, 1874.

ON the 21st instant I was about to proceed to Callao on business connected with the master and crew of the "Talisman" imprisoned there, when M. Fernandez, who, as your Lordship is aware, has been engaged in defending the British subjects Bell and Sterling, presented himself at the Legation and asked to be permitted to accompany

me. We went together, and on arriving at the jail Mr. Haddock acquainted him with his case. We then visited the crew, who we found having their evening meal, and here it may not be inopportune to mention that the food consisted of boiled meat and rice, with a quantity of haricot beans and some good bread. I cannot say that any fault could be found with either quality or quantity, regarded in the light of prison diet, although those who partook of it were not quite satisfied. At the same time they appeared in as good spirits as could be expected under the circumstances. When leaving M. Fernandez handed them the sum of 100 soles, about 18*l.* sterling, with which to better their position at this festive season of Christmas. I have not been explicitly informed of the quarter whence this timely help is derived; but I believe it comes from parties who are nearly connected with the leaders of the revolutionary movement through whose doings the crew find themselves in their present trouble.

I endeavoured to obtain for the first and second mates and the chief engineer the accommodation which had been set apart for three of the crew when they were first incarcerated, and which was superior to that provided for the rest, but I was informed by the jailor that the privilege had been forfeited by the fact that eight revolvers having been discovered secreted in their mattresses when the unsuccessful attempt was made to capture the Callao fortress, as reported to your Lordship in my despatch No. 22 of the 10th December. I regret to inform your Lordship that the charge was not denied by the men, though they asserted they knew nothing of the matter previously, and that the arms in question must have been placed there by partisans of the revolutionary organization. Under the circumstances I did not, of course, press my request.

On the 24th instant I had another interview with the Judge who is presiding in the case of the "Talisman." He told me that he had completed taking the depositions, and that in the course of a few days he would terminate the proceedings in a friendly manner; he hinted that the crew would most probably be liberated, but he abstained from making any allusion to Mr. Haddock.

I have, &c.
(Signed) EDWARD MARCH.

No. 47.

Mr. March to the Earl of Derby.—(Received January 28, 1875.)

My Lord,

Lima, December 26, 1874.

I HAVE the honour to transmit to your Lordship a translation of a communication I have received from Señor de la Riva Aguero in answer to my request for a reply to the demand I had made upon the Peruvian Government respecting Mr. Higginson, of the British steamer "Santiago." This is all the notice that has yet been taken of this matter by the Peruvian Minister for Foreign Affairs.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 47.

Señor Aguero to Mr. March.

(Translation.)

Lima, December 15, 1874.

THE multifarious and very urgent calls which, as is notorious to you, surround me at the present moment, in consequence of being charged with the Ministry of War and Marine, have prevented me from occupying myself with the affair to which you refer in your note of yesterday, which I have only this day received. But by bestowing upon it all the preference it merits, I will dedicate myself to its examination, and I hope to be able to give you an answer within a few days.

I avail, &c.
(Signed) J. DE LA RIVA AGUERO.

No. 48.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, February 3, 1875.

I HAVE had under my consideration, and have consulted the Board of Trade upon, your despatches up to that of the 12th December, relative to the case of the

"Talisman;" and I have to state to you that Her Majesty's Government entirely approve your proceedings in the matter, and your note to the Peruvian Government upon the subject, copy of which was inclosed in your above-mentioned despatch.

I have, &c.
(Signed) DERBY.

No. 49.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, February 3, 1875.

I HAVE received your despatches of the 19th, 24th, and 26th December, and I approve your proceedings as reported therein with reference to the case of the "Talisman."

I am, &c.
(Signed) DERBY.

No. 50.

Mr. March to the Earl of Derby.—(Received February 15, 1875.)

My Lord,

Lima, December 30, 1874.

I HAVE the honour to inclose a copy of a despatch I have addressed to the Peruvian Minister for Foreign Affairs, calling his serious attention to the irregularities that have marked the proceedings against Bell and Sterling, and requesting the intervention of his Government in the matter. I delivered the despatch personally to M. de la Riva Aguero, and ventured to say that I thought your Lordship would be painfully impressed on learning the heavy sentence that had been passed upon those British subjects under such extraordinary circumstances as those stated in my communication, and which have not yet been explained. I protested against the whole case as unfair to the prisoners, and begged the Minister to remember that Bell and Sterling had been set at liberty after six months' incarceration, and would, apparently, have remained free from further prosecution had they abstained from lodging a complaint at the Legation on the false imprisonment which they considered they had suffered.

M. de la Riva Aguero quoted several instances to show how powerless was the Government to interfere in the slightest way with the Judicial Department of the State, adding that Congress only could do so.

I remarked that when British subjects came into this country they did so on the faith that they would receive reasonably fair treatment, and that, when they were thrust into prison and detained there without trial for indefinite periods, his Excellency could not suppose that they had not good grounds of complaint, or that Her Majesty's Government would view such a state of things otherwise than with the deepest concern.

I may state to your Lordship that most of my colleagues complain of the mal-administration of the law in Peru, and therefore British subjects are not the only foreigners who suffer in consequence.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 50.

Mr. March to Señor Aguero.

Excellency,

Lima, December 30, 1874.

IN the expectation of hearing from the Peruvian Government in regard to the trial of the two British subjects, Bell and Sterling, which I believe is now concluded, I have not addressed myself earlier to your Excellency upon the subject.

So firmly persuaded am I that, through untoward circumstances, there has been an unfortunate miscarriage of justice in the matter, that I feel constrained to once more call the serious attention of the Government to the facts of the case.

In my despatch of the 19th of October I had the honour of acquainting your Excellency with some particulars relating to the measures taken against those persons and the occurrence which gave rise to the proceedings. I need not, therefore, recapitulate them on this occasion, but only point out to your Excellency the grounds upon which I base my opinion that in this matter the sentence of nine years' imprisonment recently passed by the Supreme Court upon Bell and Sterling is not warranted. These are—

(1.) That Bell and Sterling had both been liberated after a detention of about six months in prison, during which time nothing was proved against them.

(2.) That Downie, who would appear to have been one of the persons most implicated, had, by some means, been allowed to regain his freedom, as also the Peruvian citizen Borjia.

(3.) That it was only after Bell and Sterling had lodged a claim for damages for false imprisonment that they were re-arrested and active proceedings taken against them.

(4.) That the Judge who acted in the matter was himself at the time under the ban of the tribunals of his country, and therefore quite unfit to exercise judicial functions.

(5.) That the deposition of Bell had been criminally tampered with by an erasure, without which he could not have been convicted.

(6.) That, being under eighteen years of age, Bell should have had a *curator ad litem* appointed to him, in accordance with Article 159, paragraph 3, of the *Código de Enjuiciamiento Penal*; and that by this omission the proceedings against him are, by the express enactment of the law, null and void.

(7.) That both Bell and Sterling should have had the assistance of interpreters, according to Article 32 of the same Code.

(8.) And, finally, that the Judge is asserted to have refused the evidence of some of the witnesses produced for the defence, and, by unduly protracting the case, to have caused the loss of the testimony of others who had left the country.

I think your Excellency will see from what I have advanced that there is enough to vitiate the legality of the various judgments pronounced in the case. Other examples might be cited, tending to show that considerations favourable to the accused were left unnoticed by the judicial authorities; as, for instance, the fact of Bell not having been produced in Court, in order that, from his personal appearance, some opinion might be formed of his youth; that in the matter of the erasure, when first discovered, Bell's counsel applied that a preparation should be used to develop what had been written previous to the tampering with the declaration, but of which no notice was taken; also the fact that most, if not all, the witnesses who deposed against the prisoners apparently shared in the disturbance which led to these proceedings, and whose testimony, therefore, partook of an *ex parte* character.

I cannot conceal from your Excellency the grave concern with which I regard this matter, since, from the attention I have given it by careful personal inquiries, my conviction is, that in the course of the very protracted proceedings against Bell and Sterling serious irregularities, if not actual departure from the letter and spirit of the law, have taken place, and I have little doubt that Her Majesty's Government will concur in this view of the case.

Under these circumstances, I beg leave to suggest to your Excellency the expediency of this grave matter receiving the consideration it merits at the hands of the Executive, in order to determine the steps that may be taken, either by appeal to Congress or otherwise, to remove from these British subjects the grievance which they now suffer, and to which I do myself the honour of calling the attention of the Peruvian Government.

I have, &c.
(Signed) EDWARD MARCH.

No. 51.

The Earl of Derby to Mr. March.

Sir, *Foreign Office, February 20, 1875.*
 I HAVE received your despatch of the 30th December last, and I have to state to you that I approve your note to the Peruvian Government, copy of which is inclosed therein, relative to the case of the two British subjects, Bell and Sterling, who have been condemned by the Supreme Court of Peru to nine years' imprisonment on a charge of being concerned in a murder.

I am, &c.
 (Signed) DERBY.

No. 52.

Mr. March to the Earl of Derby. (Received March 1.)

(Extract.) *Lima, January 25, 1875.*
 I BEG leave to inclose, for your Lordship's information, a copy of a despatch I have received from Her Majesty's Minister at Bogotá.

Inclosure in No. 52.

Mr. Bunch to Mr. March.

(Extract.) *Bogotá, December 15, 1874.*
 I HAD the honour to receive, yesterday, your despatch of the 31st of October, by which you are so obliging as to put me in possession of certain facts connected with the piratical behaviour, on the coast of Peru, of the steamer "Talisman," sailing under British colours. I was already aware, from information received through Her Majesty's Acting Consul at Panamá, of the proceedings of this vessel, and had spoken to the President of Colombia respecting her.

By the "South Pacific Times" of November 14, received yesterday, I see that the "Talisman" had been captured by the Peruvian corvette "Huascar," in the Bay of Pacocha. There would, therefore, seem to be no probability of her now visiting any Colombian port.

I beg leave to thank you for your despatch.

No. 53.

Mr. March to the Earl of Derby.—(Received March 1.)

My Lord, *Lima, January 27, 1875.*

I HAVE the honour to transmit to your Lordship a translation of the reply of the Peruvian Government to the demand which I was instructed, in your Lordship's despatch of the 8th of October last, to make upon them in the case of Mr. Higginson, who was taken out of the British steamer "Santiago," in the Bay of Callao, under an order from the Captain of the port, and thrown into prison, where he was detained for a period of six days.

I have also the honour to inclose the following documents:—

1. A translation of the order under which Mr. Higginson was removed from the "Santiago" and imprisoned.
2. The Acting Consul's demand for the immediate release of Mr. Higginson.
3. A translation of the Captain of the port's reply.
4. The depositions taken by the Acting Consul on the arrest of Mr. Higginson.

5. A certified translation of the judicial proceedings followed against the prisoner, including the order for his release.

These papers and the ones already furnished to your Lordship complete the material portion of the case of Mr. Laurence Higginson.

In view of the stage to which this question has arrived, and the concluding paragraph of your Lordship's despatch, I have abstained from making any observations to Señor de la Riva Aguero upon his statements, confining myself to simply acknowledging the receipt of his note, and stating that I would communicate it to your Lordship.

The Minister attributes the long delay in answering my despatch of the 18th of November to the heavy work thrown upon him by the disturbed state of the country, which has necessitated his attending to the Ministry of War as well as that of Foreign Affairs; but I should observe that dilatoriness is a standing feature in all the transactions between this Legation and Señor de la Riva Aguero's department, and that it is not unusual to receive an acknowledgment of a despatch with an intimation that it has been referred to some other Government office, and hear nothing more upon the subject.

Señor de la Riva Aguero then proceeds to state, that, on having been made acquainted with the facts of the case now in question, his Government hastened to order the Prefect and the Captain of the Port of Callao "to liberate Mr. Higginson, unless there existed any reason to the contrary on the part of the judicial authorities."

But there is a material difference between this record of the fact and the fact itself, for the Minister, in replying to the request for Mr. Higginson's release, said: "As soon as I received your note of yesterday, relative to the imprisonment of the butcher, Higginson, of the steamer 'Santiago,' the necessary directions were issued * * * to place him in liberty, since there intervened no judicial order [for his imprisonment], and it was not quite certain by whom it [the imprisonment] had been authorised" (M. de la Riva Aguero to Mr. Nugent, July 21, 1874, inclosed in the despatch No. 47 of July 27, 1874); thus recognizing the illegality of the proceeding, and asserting the inviolability of Article 18 of the Constitution of Peru, which is to the following effect:—"No one can be arrested without a written order from a competent judge or from the authority charged with the preservation of public order, except in cases of *infraganti delicto*, it being necessary in any case that the arrested person be placed within twenty-four hours at the disposal of the corresponding judge, the executors of the said order being bound to give a copy thereof whenever requested to do so." Again, Article 72 of the Penal Code, quoted, but not in full, by Señor de la Riva Aguero, towards the end of his communication, lays down: "When the accused or the denounced is a *transeun'e* [not a resident], and without known property in the place, is of bad repute or a fugitive criminal, he will be immediately captured * * *."

Mr. Higginson was not a person of this description, but, on the contrary, a workman in the employ of a large and responsible Company, with goods and chattels, and in the receipt of wages. Also, in Article XVI of the Treaty existing between Peru and the United States, it is agreed (I translate from the Spanish version) that "no citizen of either Republic shall be imprisoned without there being first a warrant of imprisonment and of an order signed by a legal authority (except in cases of *infraganti delicto*), and in every case he will be brought before a Judge or other judicial authority, to give his declaration, within twenty-four hours from the time of his arrest, and if, within that period, his declarations have not been taken, he will immediately be set at liberty." In the Treaty between France and Peru it is agreed as follows:—"Ils ne pourront être arrêtés ni expulsés du pays, ni même transportés d'un point à autre du territoire sans motifs graves, sans que les formes légales soient observées à leur égard, et avant que les causes qui motiveront une pareille mesure aient été, en temps opportun, communiquées aux Agents Diplomatiques ou Consulaires de leur nation respective,"—(Traité d'Amitié, de Commerce, et de Navigation, conclu le 9 Mars, 1861, entre la France et la République du Pérou),—advantages which other Treaty countries may claim by the clause, which extends to their subjects the privileges accorded by Peru to the most favoured nation.

From the foregoing it is evident—even supposing, as Señor de la Riva Aguero asserts, that the Peruvian authorities were justified in acting upon the charge preferred against Mr. Higginson, that the laws of Peru were not complied with, and that, instead of the order for the arrest and imprisonment being made by the judicial authority, and legal proceedings instituted within twenty-four hours, the order (dated July 18) emanated from a civil functionary, and the declaration of the accused was not commenced until the 21st of July, or seventy-two hours after the arrest and imprisonment,

whilst the proceedings were not brought to a close before the 24th of the same month, notwithstanding that these were confined to a short examination of the accuser and the accused, a formality which, but for the state of the law in this country requiring the whole of the proceedings to be conducted in writing, might have been terminated in less than half-an-hour.

This is evident in Inclosure No. 5. By a perusal of the same inclosure it also appears that the Minister's allusion to "witnesses whom it was necessary to examine in order to establish the question of jurisdiction" has been made under a misapprehension, since there is no record of anyone besides the prisoner and his accuser having been examined by the Judge—a notable fact considering the gravity of the charge and the numerous witnesses on board the "Santiago" who could have thrown light upon the occurrence.

The statement that the accuser of Higginson presented himself before the authorities in a bleeding condition is surprising, and had not been made by the Peruvian Minister for Foreign Affairs in his despatch of the 21st of July, when, it is reasonable to suppose, he was fully acquainted with the circumstances of the case upon which he was adopting a definite course of action.

I have no doubt that the Minister has been misinformed, but I am unable, through the absence of the captain and the purser of the "Santiago," to report to your Lordship positively upon this point. It having, however, been established beyond question, and to the satisfaction of the local judicial authorities, that the wound had been inflicted in Panamá, in the middle of June, it does not seem credible that the man was in a bleeding condition from that same wound a month later, especially after having undergone hospital treatment, and been discharged as sufficiently recovered to rejoin his ship. And if it was not this wound, what other was it, since the trial of the prisoner disclosed nothing upon the subject?

Likewise, with your Lordship's permission, I respectfully submit that the reference to the alleged silence of the captain and the purser of the "Santiago," on being visited by the port authorities, is susceptible of a very different construction to the one put upon it by the Peruvian Government. Should it necessarily have occurred to the captain to communicate to the authorities an occurrence which, besides not coming within their jurisdiction, had been duly inquired into and settled at Panamá? On the contrary, your Lordship may, perhaps, deem this incident a strong *prima facie* proof that nothing had occurred on board the "Santiago" needing the interference of the local authorities, and I venture to think that it was in this light the authorities should have regarded the silence of the captain and the purser. Had they done so, or condescended to make some inquiries into the matter, either at the British Consulate or on board the "Santiago," the falsity of the charge preferred against Mr. Laurence Higginson would at once have been made manifest.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 1 in No. 53.

Señor Aguero to Mr. March.

(Translation.)

Ministry of Foreign Relations, Lima, January 16, 1875.

THE urgent necessity in which my Government has found itself during the last two months of attending, before all things, to the re-establishment of order, seriously disturbed in the south of the Republic, and the redoubled attentions required from me by the same reason, and on account of having charged myself with the duties of the Ministry of War and Marine, have been the cause of the delay in the answer which has been pending to your note of the 18th of November last past, referring to the case of the butcher Laurence Higginson, of the English steamer "Santiago."

After recording therein the complaint presented on the 20th of the previous July, upon the same subject, by your predecessor (Mr. Nugent), you proceed, by direction of your Government, to protest, in the most energetic manner, against the proceedings of the Peruvian authorities in summarily removing from a British ship, and consigning to a felon's prison, a member of her crew who, besides being innocent, could not, under whatever aspect the fault might be looked at, be responsible to the jurisdiction of the country—proceedings which, in the opinion of Her Majesty's Government, constitute a grave outrage upon a British subject. In view of which, and acting in accordance with instructions from the Foreign Office, you fulfil the imperative duty to demand, as you

do, an immediate and ample apology from the Peruvian Government in this affair, and full compensation to Mr. Higginson.

Permit me, before presenting the defence of the actions of my Government and of the Peruvian authorities in this matter, to make an exposition of the facts as they have taken place, and which did not allow the adoption of proceedings other than those laid down to the authorities by the laws of the Republic.

The first intimation of the case of Mr. Higginson was received by the Government of Peru from the British Legation, which, in a despatch dated the 20th of July, stated to this Ministry as follows:—

“On the 15th of June last past, the ‘Santiago’ then at anchor in the Bay of Panama, a deck trader came on board with articles for sale; amongst these were two revolvers, which were examined by several of the crew, and passed from hand to hand, all being ignorant that any of the barrels were loaded. Whilst in the hand of Laurence Higginson the pistol accidentally went off, and the ball unfortunately struck a Chilian of the name of Santana in the back. A doctor was immediately sent for, and the wound being considered sufficiently serious to require treatment ashore, he was sent to the hospital, all his expenses being paid by the Company, as also his wages, and on the ‘Santiago’s’ last voyage to Panama the man was reported sufficiently well to join his ship, and was again received on board. On arriving at Callao he appears to have brought a charge against Laurence Higginson of attempt to murder him. Can anything on the face of it be more improbable or less worthy of credit? The Pacific Steam Company would at once, in such a case, have handed over the delinquent to the authorities in Panamá, and they certainly, even under the remotest suspicion, would never have consented to have taken the two men in the same ship. The authorities at Panamá appear to have been perfectly satisfied that the accident took place as stated upon oath in the declarations.”

Mr. Nugent ended his despatch by denying, as was natural, that the authorities of Callao had jurisdiction in the matter, and asking me to employ all the authority of the Government in order that the prisoner might be immediately liberated and restored to his ship.

In view of the facts set forth, and extending to the account contained in the despatch of the British Legation all the credit due to it, the Government hastened to give orders to the civil and port authorities of Callao to liberate Higginson if there was no reason to the contrary on the part of the judicial authority. In proceeding thus the Ministry rendered a courteous homage to the authorized word of the Representative of Her Britannic Majesty, whose veracity was unquestionable, and recognized on its part the incompetency of the tribunals from the moment that it was question of an act which occurred out of the waters of the Republic.

But the affair in question had already arrived to the knowledge of the Judge of Callao by the information of José Santana, accuser of Higginson, who presented himself to the authorities of the port wounded and blood-stained, complaining of having been the victim of an attempted assassination within the territory of the Republic. So, when the Sub-prefecture of Callao tried to give effect to the order of the Government, Higginson was under the jurisdiction of the Judge, who was bound to attend to the accusation made against the former, and proceed entirely in conformity with the law.

In view of a man wounded by a bullet, and this still in the body, as appears from the doctor’s certificate, which forms part of the proceedings, and in the face of a formal complaint which pointed to a crime committed in Peruvian waters, the authorities of Callao could not remain indifferent or inactive. The less could they be so when the Captain of the steamer “Santiago” did not appear completely exempt from responsibility. In fact on the double visit, that of war and of health, being made, according to the custom of ports, the captain and the purser of the “Santiago” kept the profoundest silence on the incident which had happened on board, and yet a few hours afterwards a man seriously wounded, whose blood was perceivable by the authorities and as many others as were present, was disembarking. That silence, so contrary to the usages of navigation, gave, without any doubt, more force to the complaint of the injured party, and at least imposed on the authorities of Callao the duty of giving greater attention to the accusation of Santana.

The fact of the serious wound being manifest, it remained to inquire whether the crime imputed to Higginson had been committed in Peruvian waters. The doubt appeared at least possible, in view of the contrary allegations of the parties, and of the inexplicable silence of the captain. It is, besides, a fact that the steamers of the English Company perform the voyage from Panamá to Callao without going far from

the coast, which they retain always in sight, thereby navigating in the waters of the Republic.

Before this doubt, and in the presence of the demand made upon justice by a man seriously wounded, and impressed also by the mystery in which the captain of the ship appeared desirous of involving the incident, the authorities arrested, preventively, Higginson by means of an order from the Captain of the Port, directed to the commander of the "Santiago," who made no opposition whatever, and sent the accused immediately on shore.

In taking that precautionary measure, which did not prejudge the question of culpability, and which had for object the guarding of the rights of the territorial sovereignty of the Republic, satisfying at the same time a great interest of humanity and international justice; in adopting, I repeat, that measure previous to inquiry on the asseveration of the injured party, who affirmed to having been wounded in Peruvian waters, the authorities of Callao, far from having violated the laws observed by the generality of nations, have, on the contrary, applied them in the most correct manner. From the first steps in the proceedings which I have before me, the territorial Judge recognized his incompetence on account of the act having taken place in foreign jurisdiction, as appeared proved by the declarations of the distinct witnesses who it was necessary to hear. Consequently the accused was placed in liberty after a preventive imprisonment of six days.

These are the facts, and the order in which they have successively presented themselves to the Government and to the authorities at Callao. Can an element sufficient to constitute a claim against Peru be deduced therefrom? It might as well at once be held that the public action taken for the good of society should give place to a civil process for the benefit of accused persons set at liberty. That would be the most sure means of paralyzing all justice, and of preventing the repression of crimes and offences.

For fear of exposing themselves to exigencies of this nature, private individuals and States would renounce the most legitimate rights of personal defence and of sovereignty. The society of nations, which do not govern themselves by rules different to those of the society of individuals, would thus lose successively all its guarantees. Assassination is a crime within natural law, which all nations are interested in punishing. No doubt that it is a misfortune for a man to see himself unjustly accused of such a deed, but it cannot be deduced therefrom that when that crime is denounced, when the injured party has recourse to the justice of a State in the supposed limits of its sovereignty, the action of the judicial police must give to the accused the right of compensation on account of the preventive detention which is a necessary measure, above all when this is not done in a vexatious spirit. That Higginson should have sought a civil reparation from Santana might be understood, but it does not appear just to charge the same responsibility on the Peruvian Government.

To the theory generally adopted upon this point by the law of nations, permit me to add other considerations deduced from our legislation, to the terms of which all the inhabitants of Peru, be they passing through or residing in the territory, are subject. According to the Constitution of the Republic, no one can be arrested except by judicial order, or by the civil authorities in cases of *infraganti delicto*. It might be said that Higginson not coming within these cases, a violation of the law had been committed to his injury by the authorities of Callao. But by the side of that legal precept is the disposition of Article 72 of the Código de Enjuiciamiento in matters criminal, which authorizes the capture and detention of a presumed criminal when he is a sojourner, and without known property in the place. Higginson was a sojourner (*transeunte*), and of those who, by the nature of their profession, cannot remain much time in one place. His capture and preventive detention, far from being arbitrary acts, were therefore completely legal.

The Penal Code sanctions that, in case of calumny in a criminal accusation, the accuser remains subject to the penalties which the same Code establishes. In the actual case, if Santana altered the facts by making it appear that he was wounded in Peruvian waters and not in Panamá, that alteration could not be evident to the civil authorities nor to the judge, except after the initiation of the legal proceedings, because it is not lawful according to any jurisprudence to presuppose falsity nor calumny in an accusation, nor refuse to entertain it without incurring the offence of negation of justice. The Judge has proceeded, therefore, not only in a legal manner but praiseworthy, limiting the preventive imprisonment to the time strictly necessary for the clearing up of the question of competency.

With this statement I believe I have proved that the authorities at Callao in the

present case have acted according to the laws of the Republic, the principles of which are the same as those professed among all civilized people, and that there is no cause whatever to demand an apology from the Peruvian Government, which has not committed any offence against that of Her Britannic Majesty, and much less an indemnity in favour of Higginson, who has only suffered a preventive imprisonment.

My Government, which holds in high esteem that of Her Majesty the Queen, and tries always to maintain on the best footing the relations of the Republic with Great Britain, will extend to English subjects all the protection and guarantees which our laws accord to foreigners, and will make efforts to obtain for them in this country the security and well-being which we desire to all immigrants who bring us their industry or their commerce. But those new inhabitants of the national territory cannot pretend to have special laws nor dispositions applied to them which would place them in a better condition than the natives.

Hoping that the Government of Her Majesty, better informed now of all the incidents that have occurred in this matter, will be pleased to do due justice to that of Peru.

I have, &c.
(Signed) J. DE LA RIVA AGÜERO.

Inclosure 2 in No. 53.

Order of the Captain of the Port.

(Translation.)

THE captain of the steamer "Santiago" will remit with the Corporal of Matricula, of this Capitania, the butcher of that vessel.

(Signed) HERCILIO CALCICOS.

Callao, July 18, 1874.

Inclosure 3 in No. 53.

Acting Consul Wilson to the Captain of the Port, Callao.

Sir,

Callao, July 18, 1874.

I HAVE the honour to state that it has been reported to me that a British subject, Laurence Higginson, and one of the crew of the British steamship "Santiago," has been taken out of that vessel and imprisoned by your orders. I have to request that you will at once inform me what offence against the laws of Peru the said Laurence Higginson has committed, and if any, if committed within the jurisdiction of Peru, so that I may immediately acquaint Her Britannic Majesty's Chargé d'Affaires thereof.

I have, &c.
(Signed) BRACEY R. WILSON.

Inclosure 4 in No. 53.

Señor Calcicos to Acting-Consul Wilson.

(Translation.)

Sir,

Callao, July 20, 1874.

I AM in receipt of your communication of the 18th instant, in which you are pleased to inform me that the British subject Laurence Higginson, not having infringed or violated the laws of the Republic, you do not conform with the detention he is undergoing.

This Capitania not having had other notice than the demand in writing from the Sub-Prefect and Inspector of Police for the apprehension of the above-mentioned subject in consequence of the charge which the wounded man Santana brought before that authority, the undersigned bearing in mind the duties attached to his post, has confined himself to holding the accused in detention, and placing him immediately at the disposal of the Corresponding Judge; and in order that this incident may suffer no delay, and in deference to the wishes of the Consulate, the original official despatch,

and a translated copy, have been sent to the Judge who has cognizance of the case, in order that he may resolve upon whatever is proper.

With sentiments, &c.

(Signed)

HERCILIO CALCICOS,

Inclosure 5 in No. 53.

Examination of Witnesses and Inquest into the Case of Laurence Higginson, Butcher of the British Steamer "Santiago," O.N. 65,919, William Bird, Master.

THE said Laurence Higginson, having been taken out of the said steamer by the Captain of the Port of Callao on charges unknown, on the 18th day of July, 1874, and at once imprisoned in the Casamate without the cognizance of Her Britannic Majesty's Consulate at Callao:—

Deposition of William Bird, Master of the Steam-ship "Santiago."

After being duly sworn, that on the 18th day of this present month, at about 2 P.M., an officer from the Captain of the Port came on board the "Santiago" and demanded, by written order, that the butcher, whose name is Laurence Higginson, should be sent on shore with the said officer, called a Cabo de Matricula, and according to the port regulations he was sent on shore accordingly. Deponent being occupied with Her Majesty's mails, sent the chief steward on shore. Deponent went to the office of the Captain of the Port to request the release of Laurence Higginson, and received a reply from an official that the Intendente had ordered his imprisonment. Deponent immediately went to the Intendencia, and was there informed that the Captain of the Port had put Laurence Higginson in the casemate. Deponent then gave information of these matters to the Consulate.

(Signed)

W. BIRD.

Sworn at Callao, on this 19th day of July, in the year of our Lord 1874.

Before me,

(Signed)

BRACEY R. WILSON,

Her Britannic Majesty's Acting Consul.

Deposition of George Duff.

On this 19th day of July, in the year of our Lord 1874, before me, Bracey R. Wilson, Her Britannic Majesty's Acting Consul at Callao, personally appeared George Duff, chief steward of the steamship "Santiago," who, after being duly sworn, deposed on oath as follows:—

That on the 18th day of the present month, Laurence Higginson was taken out of the "Santiago" by the Cabo de Matricula from the Captain of the Port of Callao. Deponent accompanied Laurence Higginson on shore. Deponent went to the Captain of the Port's office with Laurence Higginson. The Captain of the Port, or one representing him, took charge of Higginson, and wrote an order and sent him to prison. Deponent was informed in the Captain of the Port's office that Laurence Higginson was sent to prison, on the charge of the lamp-trimmer of the "Santiago," for shooting him in Panamá. Deponent returned on board, and reported what had been done.

(Signed)

GEO. DUFF.

Sworn at Callao, on this 19th day of July in the year of our Lord 1874.

Before me,

(Signed)

BRACEY R. WILSON,

Her Britannic Majesty's Acting Consul.

Deposition of Edmund Clark.

On this 19th day of July, in the year of our Lord 1874, before me, Bracey R. Wilson, Her Britannic Majesty's Acting Consul at Callao, personally appeared Edmund Clark, chief cook of the British steamer "Santiago," who deposed on oath as follows:—

That on the 15th day of June last past while lying in the port of Panamá a pedlar of the name of Martin came on board with clothing for sale; deponent saw a revolver passed up from Martin's boat; deponent had the revolver in his hand; some of the others of the crew had the same revolver merely looking at it. Laurence Higginson took it in his hand and was examining it when the said revolver accidentally exploded and the ball entered Santana's back. A doctor was immediately sent for, and Santana was taken on shore to the hospital.

(Signed) EDMUND CLARK

Sworn at Callao on this 19th day of July, in the year of our Lord 1874.

Before me,

(Signed) BRACEY R. WILSON,
Her Britannic Majesty's Acting Consul.

Deposition of James McKenna.

On this 19th day of July, in the year of our Lord 1874, before me, Bracey R. Wilson, Her Britannic Majesty's Acting Consul at Callao, personally appeared James McKenna, second cook of the steamship "Santiago," O. N. 65,919, who deposed on oath as follows:—

That on the 15th day of June last past whilst lying in the port of Panamá a pedlar of the name of Martin came on board the "Santiago" about half an hour past eight in the morning; Martin had clothing for sale; Martin had two revolvers with him; Martin laid the revolvers down on a bail; one or another of the ship's company was handling them; deponent had one himself in his hand; deponent did not know it to be loaded; saw Laurence Higginson pick up one of the revolvers; the revolver exploded accidentally; Laurence Higginson was not pointing it at any one; was merely examining it in his hands. A doctor was sent for, when it was found that the ball from the revolver had hit the lamp-trimmer, Santana, in his back. Santana was, at the time, standing with his back to Higginson; the explosion of the revolver was purely accidental.

(Signed) JAMES McKENNA.

Sworn at Callao on this 19th day of July, in the year of our Lord 1874.

Before me,

(Signed) BRACEY R. WILSON,
Her Britannic Majesty's Acting Consul.

Inclosure 6 in No. 53.

Extracts from the Proceedings initiated against the British subject Laurence Higginson, for Wounds affirmed to have been inflicted by him upon José Santana, a native of Chile. Commenced on the 20th of July, 1874.

(Translation.)

Callao, July 18, 1874.

To the Criminal Judge of the Province.

WITH the annexed note I place at your disposal Laurence Higginson, who has inflicted a wound on José Santana on board the English steamer "Santiago." The wounded man is in the hospital of Guadalupe, and the perpetrator in prison at your disposal.

God keep, &c.

(Signature of Captain of Port.)

Sub-Prefecture and Police Office, Callao,
July 18, 1874.

To the Captain of the Port.

José Santana has presented himself at this office seriously wounded by a bullet fired upon him on board the steamer "Santiago" by the butcher of the said vessel, in the voyage from Panamá to this port. As this grave offence cannot be left unpunished, and that Capitania, to whose jurisdiction it belongs to take the necessary measures for the apprehension of the criminal, has no knowledge of the fact as stated verbally by the Captain of the Port to the Adjutant of the Prefecture, Serjeant-Major Don Maximo Benavides, who I sent to communicate the fact, I address myself to you in order that you will be pleased to take the necessary measures in the matter, informing you at the same time that the wounded man has been removed to the hospital at Guadalupe.

God keep, &c.

(Sub-Prefect's signature.)

Callao, July 20, 1874. (Received on the date.)

Let preventive declaration of aggrieved be taken; instructive one of the accused, and that of the doctor, Don Pedro Ramires Montenegro. Let the corresponding proceedings be initiated, taking care to do whatever is conducive to the clearing up of the deed. This warrant will be sufficient for the commencement of the proceedings. Let the wounded man be examined by the doctors, Don Santiago Távora and Don José Gariaso.

(Signatures, &c.)

On the 21st day of the same month, the judge having proceeded to the hospital of Guadalupe to the prisoner's ward, No. 40, in which was confined the wounded man, José Santana, who, after being sworn according to law, deposed that he was thirty-three years of age, a native of Chile, a bachelor, mariner, and Catholic. On being asked who wounded him, in what place, and on what account, said that in the steamer "Santiago" in making the voyage from Panamá to Payta, the deponent being at about half-past eight in the morning near the bulwark looking towards the sea; the butcher, Laurence Higginson, was loading a revolver, and that suddenly he felt a wound in his shoulder and another in the leg; that this was about the middle of the month of June; that with the said Laurence he had never had any cause of offence, but that having seen Laurence secrete three packages on board at Panamá, he does not know whether through fear of being denounced he wished to murder him; that on this point the sailors who happened to be near the aggressor at the time . . . might be able to give information. At this stage of the proceedings his Worship ordered the suspension of this declaration to be continued when convenient. . . . The judge then proceeded to the prison and ordered before him an individual, who, being unable to express himself in Spanish, had an interpreter appointed to him. He said his name was Laurence Higginson, twenty-eight years of age, a native of England, and of uncertain residence in this place, a bachelor, a butcher, and a Protestant.

Being asked who apprehended him, in what manner, in what place, on what day and hour, under what circumstances, and if he knew or presumed the cause of his detention, answered that he was apprehended by order of the Captain of the Port on Saturday the 18th of the present month in the afternoon, whilst working on board the steamer "Santiago," and that he was ignorant of the cause of his detention. Being asked if he knew José Santana and who it was that wounded him, he answered that about the middle of June last in the port of Panamá, an individual having come on board selling two revolvers, the deponent took one to examine it, and by accident, and without the deponent having the slightest ill-feeling against Santana, towards whom on the contrary he entertained goodwill and friendship, he wounded him in the shoulder; that soon after he was conducted on shore to the hospital, where he remained twenty-five or twenty-six days; that on the return of the steamer on the second voyage the aforesaid Santana embarked and continued the voyage to this city. That the act occurred about nine o'clock in the morning, and although many members of the crew witnessed it he could not designate any, because he did not fix his attention upon the matter. Being asked if he knew who shipped three packages in the port of Panamá which Santana might have seen, said that he knew nothing about it. Being asked how many times he had been proceeded against or imprisoned said that never. At this

stage of the proceedings his Worship ordered the suspension of the declaration to be continued when convenient.

Callao, July 22, 1874.

Let the Fiscal see this to determine on the jurisdiction of the Judge. The doctors Don Santiago Távora and Don José Gariaso will examine the wounds inflicted upon José Santana, who is under medical treatment in the hospital of Guadalupe, and will issue in continuation their respective certificates.

To the Judge of the First Instance.

Callao, July 21, 1874.

The undersigned, in accordance with the foregoing order, have proceeded to the hospital of Guadalupe to examine José Santana, and from the examination held it results that the said Santana is suffering from a wound from a fire-arm in the lumbar region of more than an inch in depth and in a straight line from the back to the front; that on the wound being probed with an instrument there appeared a projectile on the second lumbar vertebra difficult of extraction. This wound is serious, and the patient requires at least thirty days to cure himself, unless some complication intervenes.

Callao, July 23, 1874.

Let the preventive declaration of Santana be reopened. . . . The Judge having proceeded to the hospital of Guadalupe to the prisoner's ward, in which was José Santana, and under the oath already made, he asked him the following questions:— On being asked if he had been in the hospital at Panamá under medical treatment for the wounds which he said had been inflicted on him by Laurence Higgin, answered that it was true he had been in the hospital at Panamá, but not in consequence of the wound about which these proceedings were instituted, but for another illness. That this declaration is the truth, which he affirms and ratifies.

To the Judge of the First Instance.

Callao, July 23, 1874.

The deed of which Higginson is accused having occurred in foreign waters, as is seen by the declarations, your Worship may declare yourself incompetent to judge it, saving your Worship's better knowledge.

Callao, July 24, 1874.

Conforming with that decreed by the Fiscal, considering that the crime of which Laurence Higgin is accused has been committed in the English steamer "Santiago" out of Peruvian territory, in which case it does not belong to the judges of this country to take action, this Court declares itself incompetent to continue taking cognizance in the present proceedings. In consequence, let the seaman Higgin be restored to the steamer "Santiago," and let the proceedings be communicated in a certified copy to the English Consul through the Prefect of the Province, in order that the said seaman may be placed at the disposal of the authority competent to try him.

(Signatures.)

No. 54.

Mr. March to the Earl of Derby.—(Received March 16.)

My Lord,

Lima, January 29, 1875.

WITH reference to the despatch of the 27th instant which I had the honour of transmitting to your Lordship by the last mail, I now beg to inclose a deposition upon oath made before me by the officer who commanded the "Santiago" at the time of the arrest and imprisonment of Mr. Laurence Higginson, by which your Lordship will perceive that the statement of the Peruvian Government, to the effect that the accuser of Mr. Higginson was in a bleeding condition or blood-stained when he had recourse to the local authorities, is quite erroneous.

I have, &c.

(Signed)

EDWARD MARCH.

Inclosure in No. 54.

Deposition of William Bird.

I, WILLIAM BIRD, now in command of the Pacific Steam Navigation Company's steamer "Lima," make oath and state as follows:—

On arriving at Panamá the lamp-trimmer Santana, who had been accidentally wounded on board the "Santiago," of which I was then master, was sent to the hospital. On the following day I called to see him. I was told he was out for a walk. The wound was of the most trivial nature. On the return of the "Santiago" to Callao, between 10 and 11 in the morning, I saw Santana at the office of the Pacific Steam Navigation Company, and, in speaking to him, I observed he was in his usual state of good health, with no appearance of blood upon his person, and I believe him to have been in the best of health. Santana made no complaint to me or to the officers of the "Santiago" during the voyage from Panamá to Callao, and nothing whatever occurred on board disturbing the usual quiet of the ship. Had it been otherwise I would certainly have known it.

(Signed) WILLIAM BIRD.

Sworn at Her Britannic Majesty's Consulate-General, Lima, this 29th day of January, 1875.

Before me,
(Signed) EDWARD MARCH,
Her Britannic Majesty's Acting Consul-General.

No. 55.

Mr. March to the Earl of Derby.—(Received March 16.)

My Lord,

Lima, February 12, 1875.

THE attention which has of late been directed to the condition of persons confined in the prisons of Peru, and the observations made on the administration of the law, induce me to submit to your Lordship the unsatisfactory system of legal procedure in force in this country, especially in its relation to foreigners.

From the cases that have come under my cognizance, it is evident that the subordinate authorities have no discretionary power, or they are unwilling to use it, in the complaints laid before them. Persons are taken into custody and lodged in jail upon charges which the simplest examination would at once show were unfounded or unworthy of notice. Thus the liberty of the subject is at the mercy of any ill-disposed person, who, by having recourse to the authorities, can satisfy his vindictive feelings by causing the arrest and imprisonment of the object of his dislike, or inflicting other serious inconveniences.

Anyone charged with a violation of the law is first placed in jail, which is called "preventive imprisonment," and then are initiated the legal proceedings which are conducted by means of written declarations taken before a judge who attends the prison for that purpose. The process of taking these declarations generally extends over several weeks or months, just as it may suit the convenience or whim of the judge. Thus a matter which by *viva voce* examination a magistrate might have settled in one hour is indefinitely protracted and injuriously complicated, as in the case of Laurence Higginson, with which your Lordship is already acquainted. The prisoner is never confronted with his accuser or the witnesses brought against him. He cannot cross-question them, and, in a word, secrecy marks the whole proceedings. Under these circumstances, I need scarcely add that the mode of administering the law in this Republic is lamentably faulty. The law requires accused persons to be brought before a magistrate within twenty-four hours of their arrest; but this, like many other excellent provisions in the Code, has become a dead letter. Those not understanding the Spanish language have to be furnished with an interpreter; but from all I have heard upon this point I fear that, as a rule, the interpreters provided by the authorities have but little knowledge of the language which they are supposed to translate.

To obviate in some measure the injustice and hardships which this state of things inflicts upon, among others, British subjects in this country, and with which the Executive is unable to interfere, I would respectively suggest whether the execution of

a new Treaty with provisions for the proper enforcement of the law of the country might not be advisable.

I have, &c.
(Signed) EDWARD MARCH.

No. 56.

Mrs. Haddock to the Earl of Derby.—(Received March 17.)

4, Holyrood Terrace, Birchfield Road, Edge Lane,
Liverpool, March 16, 1875.

My Lord,

I TAKE the liberty of laying before your Lordship the following statement of facts relating to my husband Captain G. B. Haddock, a British subject, now a prisoner in Peru.

Captain Haddock, who, as the accompanying copy of his testimonials will show,* has been for many years employed as commander of sailing-vessels and steamers, was last year appointed to the command of the steamer "Talisman," with instructions to take her out to a port on the West Coast of South America, and there await orders. It now appears that the "Talisman" was employed in carrying out arms, &c., to aid the revolutionists in Peru, but of this the commander and crew of the "Talisman" had no knowledge, as they were not informed of the nature of the expedition, nor of the ultimate destination of the vessel. Captain Haddock was arrested by the authorities in Peru on the 12th of October last, and has been ever since that date confined as a prisoner. He is now in prison at Casamatas, Callao, and at the end of January had not seen the Acting British Minister for nearly two months, and was in consequence in great anxiety as to the intentions of the Peruvian Government towards him.

My object in now addressing your Lordship is to pray you, as the Minister for Foreign Affairs, to use your influence with the Government of Peru in procuring the release of my husband from prison, as his pay has been stopped since his capture, and he is unable to support the large family dependent on him. I do this, relying upon your Lordship's sense of justice, on the ground of my husband being a British subject, and that he was unwittingly employed against the Peruvian Government at the time of his arrest.

I have, &c.
(Signed) E. C. HADDOCK.

No. 57.

Lord Tenterden to Mrs. Haddock.

Madam,

Foreign Office, March 18, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 16th instant, relative to the case of Captain Haddock, master of the British vessel "Talisman," who is now in prison at Callao waiting his trial on a charge of being concerned in a revolutionary expedition against the Government of Peru.

In reply, I am to inform you that Her Majesty's Representative at Lima is doing all he properly can to secure proper treatment and a fair trial for the master and crew of the "Talisman."

I am, &c.
(Signed) TENTERDEN.

No. 58.

The Earl of Derby to Mr. St. John.

Sir,

Foreign Office, March 18, 1875.

WITH reference to Mr. March's despatches in regard to the case of the vessel "Talisman," I inclose herewith, for your information, a copy of a letter I have received

* Captain Haddock's testimonials were sent in original to Mr. St. John. March 18.

from Mrs. Haddock in regard to her husband, the master of that vessel. I also inclose a copy of the reply I have caused to be returned to Mrs. Haddock.*

I am, &c.
(Signed) DERBY.

No. 59.

Mr. March to the Earl of Derby. — (Received March 31.)

My Lord,

Lima, February 20, 1875.

I HAVE the honour to inclose translation of a communication I have received from the Peruvian Minister for Foreign Affairs, in reply to one I addressed him on the subject of the "Talisman." The Minister describes the present stage of the proceedings, and explains the delays which have marked the case. The fact that the crew, though still detained, are not confined with convicted prisoners, as is generally the case in this Republic, will, I trust, be viewed with satisfaction by your Lordship. I visited the jail yesterday to make sure that this information was quite correct, and from my inquiries it appears that the master of the "Talisman" shares his room with three other political prisoners, two of whom are of the rank of Colonel. The crew are with other Peruvian prisoners similarly situated, and among them are some captains and lieutenants in the army.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 1 in No. 59.

Mr. March to Señor Garcia y Garcia.

Excellency,

Lima, February 13, 1875.

I HAVE on various occasions been obliged to trouble your predecessor in office in the matter of the "Talisman," her master and crew, and, on the 19th of last month, I called Señor Riva Agüero's serious attention to the sufferings which Mr. Haddock and the men were undergoing by their protracted confinement and the suspense in which they were kept. I ended my communication by urging upon his Excellency the advisability, since there was no knowing how much longer the proceedings might last, of having the crew removed from among the general body of malefactors who were convicted prisoners. Señor de la Riva Agüero was so good as to state in reply that he had transmitted my despatch to the Minister of Justice begging him to do his best for the prompt and efficient termination of the proceedings.

In now doing myself the honour of again having recourse to your Excellency upon this subject, it is to remind your Excellency that it is now nearly four months since the "Talisman" and those on board were captured, and that as yet I have received no intimation of any definite resolution having been come to in the matter.

These persons having been actually employed on board the "Talisman" when that steamer was engaged in landing a revolutionary party on the Peruvian coast, Her Majesty's Government would not, I feel sure, claim to withdraw them from the fair operation of the law of the country; but, at the same time, Her Majesty's Government are entitled to demand that the charge preferred against them be not made the means of keeping them prisoners for an indefinite period. I am ignorant of the facts which are considered as proving that the crew were knowingly and intentionally connected with the expedition of the "Talisman." It appears to me most improbable they associated themselves designedly with persons with whom they could have no previous acquaintance or community of interest in a rash attempt at creating a revolution in the country, although it is evident that when once embarked on board the vessel in which they were serving they had no power to withdraw themselves and leave it.

If these men, however, have rendered themselves amenable to the law of Peru, that law must have its course, though I must again express my regret at the deplorable delay which is characterizing the legal proceedings in this case, and I earnestly request

that the trial of my unfortunate countrymen may be expedited, and that, pending its termination, they may be removed to a better locality.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure 2 in No. 59.

Señor Garcia y Garcia to Mr. March.

(Translation.)

Ministry of Foreign Relations, Lima, February 16, 1875.

I HAVE the honour of remitting to you a copy of the report issued by the Superior Court of this Judicial District, touching the present state of the proceedings instituted against the Captain and the crew of the steamer "Talisman." By the said document, as also by the reason given by the Commandant-General of Marine, which is also inclosed, you will see that those under trial have been duly attended to, and that they are not, as you were assured, in the same place as the sentenced wrong-doers, but in the company of those simply detained.

In other respects the delay which this affair has suffered has been unavoidable, on account of the double character which it has presented, because the criminal trial to which the crew of the ship in question had to be subjected, depends upon the result of the trial of the ship.

As I was on the point of sending this to you, I received your estimable despatch of the 13th instant, referring to the same subject, and of which I limit myself to acknowledging the receipt, in consequence of its having been partly answered by the present note.

I avail, &c.
(Signed) AURELIO GARCIA Y GARCIA.

No. 60.

Mr. March to the Earl of Derby.—(Received March 31.)

My Lord,

Lima, February 22, 1875.

I HAVE the honour to inclose a copy of a further despatch, which I have considered it my duty to address to the Peruvian Government on the subject of the indefinite imprisonment of my countrymen in Peru. This step has been rendered necessary by the very unsatisfactory way in which my remonstrances on the matter are treated.

I have, &c.
(Signed) EDWARD MARCH.

Inclosure in No. 60.

Mr. March to Señor Garcia y Garcia.

(Extract.)

Lima, February 17, 1875.

THE incessant appeals which are being addressed to me by my imprisoned countrymen in Peru force me to bring the subject once more before the notice of the Peruvian Government, in the earnest expectation that your Excellency will attend to it, and deign to favour me with some more satisfactory reply than communications of this nature have hitherto received. I feel that, when the several cases which I am now about to recapitulate, have been submitted to Her Majesty's Secretary of State for Foreign Affairs, as I am in duty bound to do, my Government will view with the deepest concern the position of those British subjects.

The case of the murder of James McKellar in January, 1874, by one Manuel Helmes, a citizen of this country, under circumstances of apparent deliberation, is another serious matter, which, so far as I am aware, is wholly disregarded, and cannot fail to give rise to disparaging reflections upon the administration of justice in this country. I drew the attention of Señor Riva Agüero to this subject four months ago, supplying him at the same time with some important particulars respecting the occurrence, pointing out to him where, according to my information, the murderer was to be found, but up to the present, I have not heard that he has been arrested, or

indeed that the authorities have done anything in the matter, though I again directed attention to it in a despatch dated December the 2nd, 1874.

Stephen Thomas states that he has been in gaol upwards of four months. On the 4th of November last I did myself the honour of addressing Señor de la Riva Agüero about this detention, and again on the 2nd of December, but my representations have remained without so much as a reply. The occurrence which led to this arrest appears to have been purely accidental, as those who witnessed it could prove.

Charles Morris has been incarcerated for a period of nearly two years, without, he assures me, having been duly judged and sentenced. I fear this is but too true, and, if so, your Excellency cannot fail to be struck by such a manifest injustice. I think it is enough to state these facts in their bare simplicity, without my taking upon myself to comment upon them.

The case of Bell and Sterling has formed the subject of a lengthy correspondence; and, in now referring to it, I do so to strongly impress upon the attention of your Excellency its gravity. This will be apparent from my despatch of the 30th of December last.

The prolonged imprisonment of the master and crew of the "Talisman" among convicted felons is another matter which cannot fail to attract a deal of attention.

Charles Cass has been incarcerated close upon five months, and on the 20th of January I begged Señor Riva Agüero to inform me of the circumstances which led to his imprisonment; and, in reply, he stated that my despatch had been referred to the Minister of Justice. I have reason to believe that there are no substantial grounds for this continued loss of liberty.

A Mr. Shaw, whilst proceeding from Pisco to Callao, was deprived of 200 soles by the authorities at the former port, and on the 20th ultimo I brought the matter under the notice of your department. I was told that the question had been referred to the Prefect at Pisco, and that is all that this Legation knows upon the subject.

Thus, your Excellency will perceive that in almost every instance of complaints from this Legation being brought to the notice of the Peruvian Government, no satisfactory or definite result is gained, it apparently being deemed sufficient (and I beg your Excellency will pardon my saying so) to reply that the matter had been referred to some other authority, and hear no more of it. I feel sure that your Excellency will not fail to appreciate the serious aspect which such a state of things assumes, involving, as it does, breaches of the constitution and laws of the Republic. Whatever be the cause of these delays in the administration of the law, it is evident that grievous injustice and untold suffering, both mental and physical, is inflicted upon British subjects, and I conclude by again earnestly soliciting your Excellency's most serious attention to the facts herein enumerated, which I must, with all the weight of my official character, beg the Peruvian Government to remedy.

P.S.—Since the above was written, I have had the honour of receiving your Excellency's despatch No. 16, by which I learn with much satisfaction that the master and the crew of the "Talisman" are not now among the convicted prisoners, but occupy a separate place. I thank your Excellency for this communication.

No. 61.

The Earl of Derby to Mr. St. John.

Sir,

Foreign Office, April 1, 1875.

I HAVE had under my consideration, and have consulted the Law Officers of the Crown upon, Mr. March's despatch of the 30th December last, and the previous correspondence relative to the case of the two English lads, Bell and Sterling, who have been condemned by the Supreme Court of Peru to nine years' imprisonment, on a charge of being concerned in a murder.

Her Majesty's Government are advised, that although from an English point of view some of the proceedings in this case have been objectionable, the evidence on which the prisoners were convicted unsatisfactory, and the sentence pronounced upon them excessive; yet that, in view of the fact that the last two trials were fairly conducted according to Peruvian law, Her Majesty's Government would not be justified in demanding the release of Bell and Sterling.

Her Majesty's Government hope, that before this despatch reaches you, the Peruvian Government will have acceded to the request of Mr. March, and granted the

remission, or at least a mitigation of the sentence; but if such should not be the case, you will address a note to the Peruvian Government, in which you will state that Her Majesty's Government, feeling that they would not be justified in impugning the administration of law and justice in Peru with regard to this case, make no claim on behalf of these men as a matter of right; but they earnestly hope that, in consideration of the great hardships to which the prisoners were subjected during their early confinement, and the length of time which has elapsed since the commission of the offence with which they are charged, and the commencement of their term of imprisonment, the Peruvian Government will favourably consider the case, and will grant to the prisoners, if not a complete remission, at least a considerable mitigation of the punishment to which they have been condemned.

I am, &c.
(Signed) DERBY.

No. 62.

The Earl of Derby to Mr. March.

Sir,

Foreign Office, April 5, 1875.

I APPROVE your note to the Peruvian Minister for Foreign Affairs, copy of which is inclosed in your despatch of the 20th February, relative to the delay which has taken place in bringing to trial the master and crew of the "Talisman."

I have learnt, with satisfaction, that the prisoners are well treated; but I regret that so long a time has been allowed to elapse before bringing them to trial.

I am, &c.
(Signed) DERBY.

No. 63.

The Earl Derby to Mr. March.

Sir,

Foreign Office, April 6, 1875.

I HAVE received your despatches of the 12th and 22nd February; and I have to state to you, in reply, that I approve your note to the Peruvian Minister for Foreign Affairs, copy of which is inclosed in your last-mentioned despatch, calling his Excellency's serious attention to the numerous cases which have lately occurred in Peru in which British subjects have been imprisoned for an unreasonable time without being brought to trial.

I am, &c.
(Signed) DERBY.

No. 64.

The Earl of Derby to Mr. St. John.

(Telegraphic)

Foreign Office, May 5, 1875.

HAS trial of "Talisman" prisoners taken place? Evidence was sent on 15th ultimo by Sibley's father of his ignorance of unlawful nature of voyage.

No. 65.

Mr. St. John to the Earl of Derby.—(Received May 15.)

My Lord,

Lima, April 12, 1875.

I DO not trouble your Lordship on the subject of the different cases pending here, as, although I have had four interviews with the Secretary of State for Foreign Affairs, nothing has been definitely settled. I, however, put some faith in his assurances, that there shall be no further delay in bringing to a termination the numerous affairs that interest this Legation.

I have, &c.
(Signed) SPENSER ST. JOHN.

No. 66.

The Earl of Derby to Mr. St. John.

Sir,

Foreign Office, June 7, 1875.

I HAVE had under my consideration, and have referred to the Law Officers of the Crown, Mr. March's despatches of the 27th and 29th January, together with the previous correspondence relative to the case of Laurence Higginson, and I have to state to you that I am advised that the explanations given by the Peruvian Minister for Foreign Affairs of the causes which led to the arrest and imprisonment of Higginson are such as to preclude Her Majesty's Government from insisting further upon an apology and indemnity from the Peruvian Government, the arrest and imprisonment appearing to have been in due course of law as ordinarily administered in Peru, though based upon what eventually proved to be a grossly false statement of facts.

I have, therefore, to instruct you to inform the Peruvian Minister for Foreign Affairs that Her Majesty's Government do not desire to press the matter further.

In doing so, however, you will express the surprise and regret of Her Majesty's Government that the Peruvian authorities should have been misled by so palpable a falsehood as that told by Santana with regard to the wound inflicted on him by Higginson, and that they should have detained Higginson so long in prison without making any inquiry into the real facts of the case.

Up to the date of my despatch to Mr. March upon this subject dated the 8th of October, 1874, the Peruvian Government had in no way repudiated the charges made against them by Mr. Nugent, though they had in conversation denied in general terms their responsibility for what had occurred; and it was not until the 16th of January last (as reported in Mr. March's despatch of the 27th January) that any explanation of the circumstances was given by the Peruvian Minister. Even then, in making such explanations, the Minister appears to have been in some respects misinformed, particularly as regards the alleged bloodstained appearance of Santana, which is positively denied by the deposition of Captain Bird, inclosed in Mr. March's above-mentioned despatch of January 29.

I am, &c.
(Signed) DERBY.

No. 67.

Mr. St. John to the Earl of Derby.—(Received June 28.)

(Extract.)

Lima, May 27, 1875.

THE untried English prisoners who were in gaol at the time of my arrival in January last were:—

Charles Morris, arrested June 1, 1873, accused of murder.

Charles Cass, arrested September 28, 1874, accused of robbery.

Stephen Thomas, arrested October 13, 1874, accused of murder.

William Mitchell, arrested December 1, 1874, accused of arson.

Morris has since been condemned to twelve years in the Penitentiary, but has appealed, and I have furnished him with a lawyer to aid him.

Charles Cass and Stephen Thomas have been acquitted, and Mitchell's case will be decided in a few days.

The crew of the "Talisman" have remained a long time in prison, but I hope that this delay may have been of some advantage to them, in giving time to the very excited passions of the Peruvians to be calmed. The sentence on the ship is expected to be delivered to-morrow; it could have been delivered some time since, had not the defence interposed delays.

The case of Bell and Sterling remains undecided, as the Government do not possess the power either to pardon prisoners or to mitigate sentences, that power being reserved for Congress.

At this moment there is but one Englishman in prison on whom no sentence has been pronounced, with the exception of the crew of the "Talisman," whose case can no longer be delayed.

I reserve detailed Reports on these cases until something positive is decided, but in the meantime I will give the Peruvian Foreign Office no rest until every pending case be settled.

The Earl of Derby to Mr. St. John.

Sir,

Foreign Office, July 3, 1875.

I HAVE received your despatch of the 27th of May, in which you state that the sentence on the British vessel "Talisman" was expected to be delivered on the following day, and that the case of the crew would be no longer delayed.

I sincerely trust that before this despatch reaches you this long-pending affair will have been brought to a conclusion; but if such should not be the case, you will call the serious attention of the Peruvian Government to the length of time during which British subjects have been kept in prison without trial, and you will strongly urge the necessity of immediate steps being taken in this matter.

I am, &c.

(Signed) DERBY.

No. 69.

Mr. Cameron, M.P., to the Earl of Derby.—(Received July 9.)

My Lord,

80, St. George's Square, S.W., July 9, 1875.

SINCE I had the honour of receiving Lord Tenterden's reply of the 2nd instant to my letter to your Lordship regarding the crew of the "Talisman," at present imprisoned at Callao, I have received another letter, addressed by William Freeman, one of the crew, to his father, containing statements directly at variance with the information in the possession of the Foreign Office. In that letter, which is dated Callao, May 18th, the writer mentions that he had seen a statement in a Glasgow paper to the effect that Mr. March, the British Consul at Callao, had visited the crew of the "Talisman" in prison, and found them well treated, lodged, and fed.

"Now," Freeman writes, "the treatment we receive is just the same as a murderer—the same meat, the same cell to sleep in. We are bundled all together, twenty of us and forty of them in the one cell to sleep in. . . . We have not seen the Minister or Consul this four months. Indeed, if it was not for the Englishmen working at Callao, I do not know what we should have done. They give a little money every week to keep us living. You can buy anything you want in prison if you have money, and you need it, for what you get wouldn't feed a child."

I consider it right that you should be informed of these particulars, and have, &c.,

(Signed) CHARLES CAMERON, M.P. for Glasgow.

No. 70.

The Earl of Derby to Mr. St. John.

Sir,

Foreign Office, July 14, 1875.

I TRANSMIT to you herewith, for your observations, a copy of a letter from Mr. C. Cameron, M.P.,* relative to the treatment of the crew of the British vessel "Talisman" in the prison at Callao.

I am, &c.

(Signed) DERBY.

No. 71.

Mr. St. John to the Earl of Derby.—(Received June 16.)

My Lord,

Lima, June 9, 1875.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 1st April last, directing me to address a note to the Peruvian Government, expressing the earnest hope of the British Government that the prisoners Bell and

* No. 68.

Sterling should receive, if not a complete remission, at least a considerable mitigation of the punishment to which they have been condemned.

I beg to inclose the correspondence which has passed on the subject, by which your Lordship will perceive that, as the Constitution of Peru does not allow the Executive to pardon, but reserves that Power to Congress, I had a petition drawn up in the name of British subjects, Bell and Sterling, and requested the Government to present it to the Chambers, as they had done on a previous occasion. The Peruvian Government declined to do so, under the plea that it is not usual to present such petitions to Congress sitting in Extraordinary Session.

In my reply I have pointed out that the reasons given are inadequate; and during an interview I had yesterday with the Secretary of State for Foreign Affairs, when he said how much he regretted that I had employed in my despatch the word "inadequate," I made use of the opportunity to remark to him, privately, that I feared Her Majesty's Government would imagine, from this and from other incidents, that the Peruvian Government treated with studied neglect every request which was made in their name.

I have, &c.
(Signed) SPENSER ST. JOHN.

Inclosure 1 in No. 71.

Mr. St. John to Señor de la Torre.

M. le Ministre,

Lima, May 25, 1875.

I HAVE the honour again to draw the attention of your Excellency to the case of the two English lads Bell and Sterling, who were accused of being accomplices in the death of a man named Robles.

I have been directed to state that Her Majesty's Government, feeling that they would not be justified in impugning the administration of law and justice in Peru with regard to this case, make no claim on the part of these British subjects as a matter of right, but they earnestly hope that, in consideration of the great hardships to which the prisoners were subjected during their early confinement, and the length of time which has elapsed since the commission of the offence with which they are charged, and the commencement of their term of imprisonment, the Peruvian Government will favourably consider the case, and will grant to the prisoners, if not a complete remission, at least a considerable mitigation of the punishment to which they have been condemned.

I am aware that the Executive has no right to interfere directly with the pardoning power, but that it is reserved to Congress to mitigate the effect of harsh or unjust sentences; I therefore inclose a petition from the lads Bell and Sterling, which I would beg the Peruvian Government to present immediately to Congress, and to use their legitimate influence to see that it is passed.

I am also aware that it is said not to be usual to apply to an Extraordinary Congress for a pardon; but I would point out that there is nothing in any law to prevent the Government from presenting the inclosed petition. It depends entirely on the will of the Executive whether they will present it or not.

I may remind you, also, that, in the year 1870, the Minister of Justice, on the demand of Mr. Jerningham, presented the petition to Congress for the release of William Wiles; that this petition was passed, and the prisoner was set at liberty.

I would now request your Excellency to draw the immediate attention of the Peruvian Government to this affair, so that no time may be lost in presenting the petition to Congress. I need scarcely repeat the circumstances of the case; but I may notice that the real culprits were permitted to escape; that the evidence on which the prisoners were convicted was as unsatisfactory as it was contradictory, and that the sentence is excessive: and that further delay would throw over the consideration of the question to the next meeting of Congress in July 1876.

As Her Majesty's Government feel deeply interested in this question, I am assured that the Peruvian Government will give it all the attention that it merits, and not permit the Extraordinary Congress to close without having procured the pardon, or the mitigation of the punishment, of these unfortunate lads.

Accept, &c.
(Signed) SPENSER ST. JOHN.

Inclosure 2 in No. 71.

Señor de la Torre to Mr. St. John.

(Translation.)

Sir,

Ministry of Foreign Relations, Lima, May 29, 1875.

I HAVE had the honour to receive your esteemed note dated the 25th of the present month, in which you have inclosed a petition asking pardon for the British subjects, Bell and Sterling, condemned by the Tribunals to the punishment of the Penitentiary.

Your Excellency is not ignorant, and you are pleased to indicate it in the name of your Government, that it would not be justifiable to impugn the administration of law and justice in Peru, and so I have seen with surprise in the same despatch your unacceptable observations upon the proceedings, upon the nature of the evidence which was taken into consideration to condemn Bell and Sterling, and upon the sentence pronounced. Your Excellency, in occupying yourself in this matter, appears not to be in accord with the principles laid down in the name of the illustrious Government of Great Britain, nor to remember the contents of my despatch of the 12th instant, and of the documents thereto annexed.

For the rest, your Excellency knows that Extraordinary Congresses are convoked for the determination of questions of general interest, and that, if the Executive reserves to itself the right to submit to its deliberation others which have not been included in the Decree which convoked it, it cannot occupy itself with private business of the nature of that now referred to.

I had already indicated to your Excellency in verbal conferences that it was not possible to consent to what you solicited, and I thought that the reasons then set forth, and which I request your Excellency to recall to your memory, would be sufficient to convince you; but not having succeeded in my object, I am under the necessity to manifest to your Excellency that my Government, notwithstanding the consideration which that of Her Majesty merits to whom it would desire to give a proof of deference, cannot submit to the Chambers, united in extraordinary session, and occupied in grave affairs of great importance, the petition of the criminals Bell and Sterling, who can themselves present it to the Congress which will meet next year, 1876.

For that object, I return to your Excellency the above referred to Petition, and avail, &c.

(Signed) A. V. DE LA TORRE.

Inclosure 3 in No. 71.

Mr. St. John to Señor de la Torre.

M. le Ministre,

Lima, June 7, 1875.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 29th of May, 1875, in reply to mine of the 25th of May, in which, by the direction of Her Majesty's Government, I requested the pardon or the mitigation of the punishment of the British subjects Bell and Sterling.

Your Excellency now informs me that the Peruvian Government have decided, for reasons which appear to me to be quite inadequate, not to take any steps to meet the wishes of the English Government.

It is with the greatest regret that I shall bring this decision to the knowledge of Her Majesty's Secretary of State for Foreign Affairs.

Accept, &c.

(Signed) SPENSER ST. JOHN.

No. 72.

Mr. St. John to the Earl of Derby.—(Received July 16.)

My Lord,

Lima, June 10, 1875.

IN reply to your Lordship's despatch of the 5th April last, I have the honour to inform your Lordship that the "Talisman" has been condemned as a good prize, and that the master, officers, and others have been handed over to be tried by the Criminal Courts. As the advocate chosen to defend the "Talisman" has appealed

against this sentence, and as, until this appeal be settled, the prisoners cannot be tried I see no termination to the delays which have marked this case.

To my remonstrances, the Secretary of State replies that the present delays are caused by the action of the defence. I do not, however, fail to keep the subject constantly under the attention of the Government.

I have, &c.
(Signed) SPENSER ST. JOHN.

No. 73.

Mr. St. John to the Earl of Derby.—(Received July 30.)

My Lord,

Lima, June 22, 1875.

I HAVE the honour to acknowledge receipt of your Lordship's despatch of the 5th ultimo, containing the copy of a telegram forwarded to me on that day, on the subject of the "Talisman" prisoners. This telegram did not reach me. I have now written to Her Majesty's Consul at Panamá to request him to make inquiries on the subject, and to suggest that telegrams should be sent from that town in registered letters.

I have received some documents from Mrs. Sibley, and have handed them to the lawyer engaged to defend the prisoners.

I have, &c.
(Signed) SPENSER ST. JOHN.

Correspondence respecting the Imprisonment of
British Subjects in Peru : 1874-75.

*Presented to the House of Commons by Command
of Her Majesty, in pursuance of their Address
dated July 19, 1875.*

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DELAGOA BAY.

CORRESPONDENCE

RESPECTING THE

CLAIMS

OF

HER MAJESTY'S GOVERNMENT.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

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DELAGOA BAY.

Correspondence respecting the Claims of Her Majesty's Government.

No. 1.

Earl Granville to Mr. West.

Sir,

Foreign Office, October 26, 1872.

HER Majesty's Government have for some time past been in discussion with the Government of Portugal relative to their respective claims to certain territories formerly belonging to the Kings of Tembé and Mapoota on the Eastern Coast of Africa, including the Islands of Inyack and Elephant. The two Governments have at length agreed to refer those claims to the arbitration of a friendly State, and entertaining full confidence in the judgment and impartiality of the President of the French Republic, they have determined to unite in requesting his good offices for that purpose.

The mode and terms in which the British and Portuguese Governments have agreed to submit the matter in dispute to the arbitration of the President are fully stated in a Protocol, signed at Lisbon on the 25th ultimo, of which I transmit to you a copy.* As soon as you receive this despatch you will communicate with your Portuguese colleague at Paris, and will arrange with him for addressing to the French Minister for Foreign Affairs, simultaneously, a formal invitation to the President, as the common friend to both parties, to undertake the arbitration. The invitation should, of course, inclose a copy of the Protocol.

I am, &c.

(Signed) GRANVILLE.

No. 2.

Lord Lyons to Earl Granville.—(Received November 9.)

My Lord,

Paris, November 8, 1872.

I HAVE the honour to transmit to your Lordship a copy of a note from M. de Rémusat stating that the President of the French Republic accepts the office of Arbitrator on the British and Portuguese claims to certain territories on the East Coast of Africa.

I have, &c.

(Signed) LYONS.

Inclosure in No. 2.

M. de Rémusat to Lord Lyons.

M. le Ministre,

Versailles, le 6 Novembre, 1872.

CONFORMEMENT au désir que vous m'avez fait l'honneur de m'exprimer dans votre office en date du 1^{er} de ce mois, j'ai soumis à M. le Président de la République le Protocol signé à Lisbonne le 25 Septembre dernier, par lequel le Gouvernement Britannique et le Gouvernement Portugais sont convenus de le choisir comme arbitre pour terminer une contestation pendante depuis plusieurs années, entre la Grande Bretagne et le Portugal, au sujet de la possession de certains territoires situés sur la côte orientale d'Afrique.

* See page 14.

M. le Président de la République me charge de vous annoncer que très touché d'un témoignage aussi honorable de l'estime des deux Puissances, il accepte volontiers le mandat que leur confiance lui décerne et donnera tous ses soins pour s'en acquitter d'après les règles posées dans le Protocole du 25 Septembre.

En vous priant de porter cette réponse à la connaissance de votre Gouvernement je m'empresse de vous faire savoir que je me tiens à votre disposition pour recevoir, au nom de M. le Président de la République, toutes les communications que vous jugeriez à propos de lui adresser concernant les questions déferées à son arbitrage.

Recevez, &c.

(Signé)

REMUSAT.

No. 3.

Earl Granville to Lord Lyons.

My Lord,

Foreign Office, September 10, 1873.

I TRANSMIT to your Excellency the Case prepared for submission to the President of the French Republic as arbiter, in support of the claim of Great Britain to certain territories formerly belonging to the Kings of Tembé and Mapoota on the Eastern Coast of Africa, including the Islands of Inyack and Elephant; and I have to instruct your Excellency to deliver the same, as the Case of Her Majesty's Government, to the French Minister for Foreign Affairs, accompanying it by an official note, in which you will express the thanks of Her Majesty's Government for the compliance of the President with their request that he would undertake the arbitration.

If the case in support of the claim of Portugal should not have been already sent in, it would be well that both Cases should be sent in simultaneously by arrangement with your Portuguese colleague, but at all events the case on the part of Her Majesty's Government must be delivered in before the 25th instant, when the period of twelve months allowed for that purpose by the Protocol of the 25th of September, 1872, will expire.

You will also deliver to the Portuguese Representative at Paris a copy of the Case of Her Majesty's Government, in fulfilment of the stipulation to that effect in Article III of the Protocol, and you will receive from him and transmit to me a copy of the case on the part of the Portuguese Government. It would be convenient if you could be furnished with six copies of it.

In addition to the two copies for presentation, I inclose eighteen further copies of the case, six for the French Government, six for the Portuguese Minister, and six to be kept in Her Majesty's Embassy.

I am, &c.

(Signed)

GRANVILLE.

Inclosure 1 in No. 3.

CLAIMS TO TERRITORIES ON EAST COAST OF AFRICA.

Case for Her Majesty's Government.

FOR several years serious differences have existed between the Governments of Great Britain and Portugal in reference to their respective claims to certain territories on the Eastern Coast of Africa and the adjacent islands.

By a Protocol signed at Lisbon on the 25th September, 1872, the two Governments agreed to submit their respective claims to the territories and islands in question to the arbitration and award of the President of the French Republic, who should decide thereon finally and without appeal.

These territories are described by the Protocol as formerly belonging to the Kings of Tembé and Mapoota, on the Eastern Coast of Africa, including the Islands of Inyack and Elephant, and so far as the Portuguese claim is concerned, extend as far as 26° 30' south latitude.

The chart which is annexed shows a sufficient outline of the territories respectively claimed, but does not reach quite so far south as 26° 30'; and the part which

Existing differences
between the two
Governments.

Submission to
arbitration.

Appendix II,

Territories in dispute.

Appendix I.

is coloured pink marks the portion to which the British Government asserts a right, contending that the Portuguese dominion reaches south only *ad medium filum aquæ* of the Dundas, or Lorenzo Marques River, the English River, and the little bay of Lorenzo Marques, being bounded on the east by the sea, and not extending to the Inyack Peninsula, or to the Inyack and Elephant Islands.

The chart purports to be a survey of the Bay of Delagoa, which it will be seen is a large indentation on the east coast of Africa extending between latitudes 25° 30' south and 26° 21' south.

Nearly in the centre of this large bay is a smaller bay lying between Cape Reuben to the north, and Cape Mawhome to the south. The English River, with its confluent the Mattoll, the Lorenzo Marques or Dundas, and the Tembê, falls into this smaller bay.

The Portuguese contend that although Delagoa Bay means the Bay of Bays or the Great Bay, yet that the words Delagoa Bay and Lorenzo Marques Bay are convertible terms, and that at all events the smaller bay must be comprehended in the expression, and taken as a part of Delagoa Bay.

The English Government, on the contrary, maintain that, accurately speaking, the term Lorenzo Marques is in no sense applicable to the large bay, but is strictly confined to the smaller bay.

The Portuguese factory or fort called Lorenzo Marques is situated on the left or north bank of the English River, nearly at the point where the river falls into the little or Lorenzo Marques Bay.

The Island of Elephant is nearly opposite the centre of the small bay, and lies about twenty miles to the east of it. South of Elephant is Inyack Island, and again south of Inyack Island is Colatto Point, forming the extremity of the peninsula, which joins the mainland, and rounds the southern extremity of Delagoa Bay, of which the western shore, intersected however by the river Mapoota, is continued north, round Mawhome Point, up to the south or right bank of the English River.

The territories in dispute, and coloured pink on the chart, were, as the Protocol admits, at some time the property of the Kings of Tembê and Mapoota.

The main questions for the consideration of the Arbitrer are whether those Kings have in any way, either by conquest, cession, or otherwise, ceased to be the possessors of these territories, or, of any, and what portion of them. And if the Kings of Tembê and Mapoota, or either of them, be no longer independent, whether the Portuguese or the British Government has acquired a right to the dominion over those lands.

On the part of the British Government it is contended—

1. That these several territories, though discovered by the Portuguese, were never, in fact, taken possession of, occupied, or held by the Portuguese, whose dominions to the south were always bounded by the Dundas or Lorenzo Marques, and by the English River, and to the east by the sea, and were at no time extended to Elephant and Inyack Islands, or to the Inyack Peninsula.

2. That the whole country south of the Dundas or Lorenzo Marques River and English River, and to seaward, was free and independent: the native inhabitants under their chiefs, retaining absolute dominion over, and possession of, these territories, over which the Portuguese exercised no jurisdiction.

3. That these chiefs, with the consent of the natives, and in exercise of their independent rights ceded by Treaty, in 1823, the sovereignty over these territories to the Crown of Great Britain.

The grounds of this contention on the part of Her Majesty's Government will appear from the following statements of facts, official documents, and correspondence, and the arguments fairly deducible therefrom.

The British Government in 1822 fitted out a small squadron under the command of Captain Owen, for the purpose of surveying the south-east coast of Africa, the coasts of Madagascar, and the adjacent seas.

At this time little, if anything, was accurately known in England of the condition of the native tribes on this part of the coast of Africa; whether they were free and independent, and if so, whether they had any form of Government or not; and if they had a Government, what might be that form of Government.

Or, whether they were subject, and if so, in what manner or degree, to the Crown of Portugal.

The British Government knew that the Portuguese held some possessions on the south-east coast of Africa, since those possessions were referred to in the XXIVth Article of the Treaty of 1810; and in the IIInd Article of the Additional Convention to the Treaty of the 22nd January, 1815, for the purpose of preventing any illicit Traffic in Slaves, which Convention was signed in London on 28th July, 1817.

Delagoa Bay.

Bay of Lorenzo Marques.

Fort or factory of Lorenzo Marques.

Elephant and Inyack Islands, and Inyack Peninsula.

Questions to be settled by the Arbitrer.

Contention of the British Government.

General history and explanation of the points on which the contention of the British Government rests.

Some information had also been derived from the masters of ships, who, for the purposes of the whale fishery, or of trade, had been on the coast.

The British Government, therefore, in order to obtain the aid, if required, of the Portuguese authorities on the coast, and at the same time to show all proper deference to the Portuguese Government, directed a letter to be written to M. de Oliveira, the Portuguese Chargé d'Affaires in London, requesting him to furnish Captain Owen with letters to the Portuguese authorities on the eastern coast of Africa, desiring them to afford to Captain Owen such refreshments and assistance as the ships of the squadron under him might be in need of, in the event of their touching at Mozambique, or any other Portuguese Settlement on the African coast.

This letter was sent on 22nd February, 1822, and the request then made was complied with, Captain Owen being furnished with the papers required.

The first port on the coast at which Captain Owen arrived was English, or Lorenzo Marques River, in Delagoa Bay.

Captain Owen, in a letter to his Excellency Senhor X. de Botello, Governor and Captain-General of Mozambique, dated the 10th of May, 1825, gives a brief abstract of all the transactions in which he took part, or of which he had any knowledge, at Lorenzo Marques.

This letter, which is material since it purports to give a history of the facts upon which a correspondence between the two Governments of Great Britain and Portugal subsequently took place, contains the following more important statements:—

“The first port I arrived at on this coast was English River, in Delagoa Bay, or Lorenzo Marques, where I found a small Portuguese factory and fort, commanded by a Captain Jacques Casimir, who had succeeded a Senhor M. Oliveira, who, but a short time previous, had killed himself. Under the impression (a false, but very common one, founded in ignorance) that all the surrounding country and coast was under Portuguese jurisdiction and authority, I showed Senhor Casimir my papers from the Portuguese Ministry, and asked his permission to survey the rivers in obedience to my orders, and his protection from the natives when necessary. His answer was, that the whole country was free and independent; that the Portuguese had no authority beyond the precincts of the fort; and that he was in hourly fear himself of an attack by the native Vatas even in his own fort; and that they had already laid waste the surrounding country; and therefore that he had no means of furnishing protection to my boats beyond the reach of his guns.”

In accordance with this statement the surveys of English River, and of its confluents, the Rivers Mattoll and King George, and of the whole of Delagoa Bay, Elephant and Inyack Islands and Inyack Peninsula and the neighbouring coast were made without either assistance or hindrance from the Portuguese.

It is not necessary for the discussion of the point before the Arbitrator to consider whether the Governor at the time of Lorenzo Marques, or Captain Owen, was right in the action which each took in reference to the English ships the “Singapore,” “Orange Grove,” “Eleanor,” or His Britannic Majesty’s ship “Albatross,” referred to in this letter of Captain Owen.

The conduct of those officers, however, led to a correspondence between the two Governments, in which the questions now submitted for arbitration were first raised.

This correspondence, and the annexed documents and the convention of 1817 contain the whole case on which the claims of the two Governments were then, and have down to the present time been, based.

In this correspondence the rights of the Portuguese are founded upon:—

1. Discovery.
2. The erection of fortresses and establishments.
3. Acts and compacts entered into between the Portuguese and the natives.
4. The general admission by civilized nations of the rights of Portugal as evidenced by charts.
5. The language of the Treaties and Conventions between Great Britain and Portugal, and particularly the IIInd Article of the Convention of 1817.

1. The mere fact of discovering, apart from possession and occupation, cannot, it is submitted, establish an absolute and permanent right to dominion. Indeed, the Marquis de Palmella admits as much, when he relies upon the other grounds.

Appendix III.

Appendix IV.

Appendix V.

Contention of the Portuguese Government, and the grounds upon which that contention rests.
Appendix V and Inclosures.

Remarks on the grounds relied on by the Portuguese Government.
1. Discovery.

2. The raising of a fortress, and the maintaining a garrison in such a fortress, is beyond contradiction, an absolute occupation and possession of the ground upon which the fortress stands, and of the ground covered by the guns of the fortress.

2. Forts and establishments.

But the question remains, to whom does the country beyond the range of the guns belong?

Where, as in the present case, the fortress is placed on the bank of a river, it may well be that the river marks the limit of occupation.

How then is the territorial extent of a dominion depending upon the possession of a fortress to be measured and ascertained? Not by any arbitrary theory, which might fail in its application to a particular instance, but by the real facts of each individual case practically tested.

For instance, it could not, in the case of the Fort Lorenzo Marques be successfully contended that the occupation of that fort by the Portuguese Governor and his garrison gives the Crown of Portugal a right to an indefinite extent of territory to the southward and westward. Some limits must necessarily exist, and be determined at least in those directions.

The independence or dependence of the inhabitants becomes the only test which can be relied on in order to define those limits.

As far as the Governor of the fortress, in the name of his Sovereign, can and does exercise authority and jurisdiction, so far the country and its inhabitants are under the control and government of the country to which that fortress belongs.

That control and government cease at the moment and at the places where the jurisdiction no longer exists, and the authority no longer is or can be exercised.

Her Majesty's Government contends that the powers of the Governor of Lorenzo Marques and of Portugal, as represented by him, have never reached the south or right banks of the Dundas or Lorenzo Marques and English Rivers.

The proof of this dominant and governing fact is to be found in the conduct of the natives and of the Portuguese themselves, and in the acts and compacts into between the Portuguese and the natives, as well as those made between the natives and the British.

In a subsequent communication (page 48) from the Portuguese Government a reference is made to the passage in Horsburgh's directions, where it is stated that on entering the river the ruins of the Portuguese fort were seen on the right, that is, the south bank. There is a reason to believe that these were the ruins of a fort which the Portuguese, after the destruction of their fort on the north bank, were allowed by the natives to erect temporarily, and for permission to build and occupy which they paid a quit rent to the natives.

Appendix XIV.

The ruins have long since disappeared, and with the exception of this permission to temporary occupation of a small piece of ground, the Portuguese have never held a foot of ground nor set up a single factory or establishment south of the river.

Her Majesty's Government is unable to give any weight to the argument drawn by the Marquis de Palmella from the supposed consent or acknowledgment of the European nations as shown by the charts of geographers.

3. Charts.

These charts can only be evidence that the great bay was sometimes called the Bay of Lorenzo Marques, which might very well be from the fact of the fort of that name being within the bay, or from the name of the first navigator in those waters; but it is no proof of the extent of Portuguese dominion on the shores of, or on the islands in, that bay.

The chart of the survey in Appendix I is a proof how little reliance can be placed upon a mere name, and that no inference, much less an argument, can be drawn from the use of a name.

Captain Owen was the most unlikely person in the world, from his disputes with the Portuguese, his knowledge of the facts, and his transactions with the natives to admit a point in favour of the Portuguese claim to territory or jurisdiction over the whole shore washed by the waters of the Bay of Delagoa, yet he calls his chart a survey of Delagoa Bay or Lorenzo Marques.

And no greater reliance can be placed upon the fact that the tracing or colouring of these charts places the whole of the larger bay within the Portuguese territory; the real state of these countries being till recently little known by, and of little interest to, any European nations.

5. The Treaty or Compact between King Capella and the Portuguese Governor in 1794, to which the Marquis de Palmella refers, is a grant made by that King to the Crown of Portugal of a small portion of land extending along the sea coast.

5. Acts and compacts with the native.

Appendix V and Inclosures.

It is difficult, owing to the confusion caused by different names having been given to the same places and rivers to ascertain precisely where this small tract of land, the subject of the gift, lay.

Possibly it was situated at no great distance from the Fort of Lorengo Marques, certainly it was on the shore, and as certainly it was part of the territory of the King Capella, with whom the Governor of the Portuguese fort, on behalf of the Crown of Portugal, treated as with a free and independent Sovereign holding possession of and exercising dominion over territories a part of which he was able to grant away, and a part of which the Portuguese were willing to accept from him.

Her Majesty's Government submits that this Compact and Act entered into between the native King and the Portuguese, the only document of the kind, which the Marquis de Palmella refers to of a date earlier than 1823, proves that at least in 1794 the tribes on the coast were, and certainly that King Capella was, free and independent, and is strongly in contrast with the statement in the Marquis de Palmella's letter of the 22nd May, 1828, written in answer to Lord Dudley's letter of the 5th December, 1827.

The Marquis there, after referring to the rights supposed to be acquired by the Portuguese in virtue of their being the first discoverers, says, "*Cette raison suffit sans doute pour démontrer qu'aucune autre nation n'en avait pris possession avant eux, mais elle ne suffirait pas pour établir leur droit, si elle n'avait été suivie d'une possession maintenu sans dispute pendant plusieurs siècles et fortifiée par la reconnaissance des peuplades qui habitent ce pays formellement consignées dans des Conventions et des documents aussi valides, sans doute, que la Convention que le Capitaine Owen a induit le Chef de Mapoota à conclure avec lui, et qui ont sur cette dernière l'avantage incontestable de la priorité de date.*"

Her Majesty's Government admits that the documents are of the same weight as evidence of the rights of the Chiefs, and will only observe that the grant to the Portuguese is of a small piece of ground, the grant to Great Britain is of the whole territory, which the Portuguese Crown is now claiming.

The Marquis de Palmella, in this same letter of 22nd May, 1828, makes some remarks upon the half-savage, half-civilized state of the native tribes, and the effect that state may have upon the validity and effect of any Convention made with them.

These remarks are as applicable (indeed, the Marquis says as much) to the Conventions made by them with the Portuguese, as to those made with the English in 1823.

The Marquis de Palmella, therefore, with great fairness annexes to his letter of May 23, 1827, the Treaties or Conventions made in 1823, between the English and the natives.

Her Majesty's Government having shown that the Portuguese Government had no right, save by a temporary and permissive occupation, over any part of the territories of the Kings of Tembé and Mapoota, and that those Kings were free and independent, and treated as free and independent Sovereigns and not as vassals by the Portuguese authorities; it is now the proper place to show when and in what manner the rights which Her Majesty's Government claims were ceded to the Crown of Great Britain by the Kings of Tembé and Mapoota by Conventions in 1823, and to examine those documents carefully.

The Conventions made with the English were—

1. A Treaty of Commerce made with Makasane, King of Mapoota, on the 3rd of August, 1823.

This Treaty was to last for four years, and opened the trade in the River Mapoota on the payment of certain tolls.

2. A Treaty of Amity and Friendship between the subjects of the King of Great Britain, and the subjects of the same Makasane, King of Mapoota, made on the 23rd August, 1823. There were, as will be seen from the Treaty itself, various provisions for the opening of trade, the establishment of settlements, the abolition of the Slave Trade, and matters of law and regulation in the Kingdom of Mapoota.

It is impossible to read these two Treaties and not be convinced that the King of Mapoota acted in every respect as a free and independent Sovereign at the time when he signed them.

He opened trade into, and out of, his dominions, he imposed tolls and restrictions upon this trade, allowed the establishment of settlements on his territories, and all this he did of his own free will, for the benefit of his people, and without the least appearance, internally from the terms of the Treaty or externally from the suggestion of

fraud or force, of having been coerced or tricked into the surrender of his own or any other persons rights.

But Her Majesty's Government admits that these Treaties do not confer upon Her Majesty any territorial rights, or any right to dominion or jurisdiction over the lands belonging to Mapoota other than the leave to trade and establish settlements in the nature of factories.

Information appears to have soon reached the Governor of Lorenzo Marques that these two Conventions or Treaties had been made with the English, and he, without delay, proceeded to take measures to defeat or nullify them.

He claimed to have obtained from the King of Mapoota the Declaration dated 8th October, 1823. In this Declaration it is said that, the Most Illustrious the Governor of Lorenzo Marques covenants to afford the King of Mapoota all the protection in his power, because the King recognises the Portuguese alone as the lords and discoverers of all these lands, so that the ancient relations continue in force; and no validity can attach to any negotiation, or Convention with any nation except with the Government of Portugal. The King of Mapoota, then, by the very terms of the Declaration, was at liberty to make a declaration agreeing to recognize the Government of Portugal, and therefore was not in a state of vassalage, as represented by the Marquis de Palmella, to the Crown of Portugal. The power of making an agreement implies the ability to refuse to make such agreement, and is a mark and test of independence. If the King of Mapoota had that power in respect of Portugal in October, 1823, he had the same power in respect of Great Britain in August, 1823, and the Declaration obtained by the Portuguese in October cannot make invalid the English Treaty of August. It is submitted that the Declaration obtained by the Governor of Lorenzo Marques in October, 1823, is a strong proof of the power to make the Treaties of August, 1823, and of the rights of Great Britain under that Treaty.

Appendix V,
Inclosure 2.

In March 1823 a Convention was made on behalf of the King of Great Britain with Mayott, King of Temb , whose ancestor had made the Treaty already referred to with the Portuguese in 1794.

Appendix VIII.

By this Treaty Mayott, or Macetas, King of Capella, describing himself as King of all the lands situated between the English and Dundas Rivers on the one side, and the River Mapoota on the other, commonly called Temb , after one of his forefathers, who settled the land, did, by the power and authority devolved on him by the much lamented death of his grandfather, the late King Capella, freely cede to the full sovereignty of the lands of Temb  and Mapoota to the King of Great Britain on certain conditions.

The object of this cession is said to be to secure the protection of Great Britain against the oppression of native tribes and of European nations, more particularly the Portuguese.

The means by which the object is to be obtained are the surrender of the whole territory to the Crown of Great Britain, exactly as the small piece of ground had in 1794 been ceded to Portugal by the former King of the same nation.

The effect, however, of this Treaty of March 1823, is sought by the Portuguese Government to be invalidated by an Act of the 20th October, 1823.

Appendix V,
Inclosure 4.

This Act recites that on the day preceding King Capella had gone to the Portuguese factory to do the accustomed homage to the factory, in order that the factory might cause him to be acknowledged King of Temb . And that having done the homage, without which he could not be so acknowledged, he was immediately recognized as King of the whole territory of Temb , binding himself, as was his duty according to ancient customs, to acknowledge himself subject to the factory.

The date of this document raises a very great doubt of its genuine character. In March 1823, Capella represented himself to be *de facto* and *de jure* King of Temb ; why should it be necessary for him to do any homage to the factory to confirm his title and authority? Why should he delay doing that homage, if it was necessary, for so long a time as six months?

There is nothing to show, nor any suggestion, that Mayott, or Macetas, King Capella, who made the Treaty in March 1823 with the English, was not the same person with Macetas, King Capella, who is stated to have done homage to the factory in October 1823.

And it is to be observed that the Treaties made with the English are signed by the King Capella, whilst these Declarations said to have been made at the Portuguese factory do not even purport to have been signed by him, but were signed by some other persons.

The language of this Act, as well as the language of the Declaration of 20th October, contrast unfavourably with the language of the English Treaties.

The latter bear the appearance of being the expression of a genuine wish on the part of the native Chiefs to enter into the Treaties with Great Britain. It is barely possible that those Chiefs should represent themselves as free and independent unless they were so in fact, nor is it credible that the English officers, who knew the state of the country, and who entered into those Treaties, should have dealt with those Chiefs as free and independent, when in point of fact they were the vassals and subjects of the Crown of Portugal, which power had a fort and garrison on the opposite bank of the river in the immediate neighbourhood.

On the other hand the documents procured by the Governor of Lorenzo Marques, in October, 1823, look like a contrivance by which the Treaties made with the English might be rendered ineffective, and at the same time an admission of dependence and subjection, quite needless if the fact were so, be obtained from the native Chiefs.

In corroboration of this view the attention of the Arbiter is here invited to the singular document inclosed, also in the letter of the Marquis de Palmella, and called an act of the declaration made by the King Macetas Capella, and by all the principal persons and secretaries of Temby, and dated the 20th October, 1823, and signed by the Portuguese.

The statement put into the mouth of the King, and said to have been applauded by his attendants, to the effect, and in answer to the questions put by the Portuguese, that the lands belonged to the Portuguese and were the property of the Portuguese, and had not been and could not be delivered up to the English, were so contradicted by the grant of lands to a limited extent to the Portuguese by the document of 1794 already referred to, that it is not possible to avoid suggesting a fraudulent contrivance on the part of the Portuguese Commandant.

This pretended dependence and subjection is quite in contradiction to the free gift of a part of the territory in 1794, and the assertion is, therefore, incredible.

The power to cede and make over a part is a positive and direct assertion of the right of the grantor to hold and keep the part not granted, is an equally distinct and positive admission by the grantee that he has a right only to the part ceded to him, and of his title to hold that part so ceded by force and virtue only of the grant.

Her Majesty's Government, therefore, submits that the Arbiter may form a safe and just opinion upon the claims referred to him from the review of these documents, which are the only instruments of the kind of which Her Majesty's Government has any knowledge.

They prove—

1. That in 1794 the then King Capella was a free and independent Chief, retaining from, or alienating to the Portuguese such portions of his territory as seemed good to him in the exercise of his own full rights.

2. That in 1794 the Portuguese treated with the then King Capella as an independent Sovereign, accepted from him such part as he was pleased to grant them out of his dominions, and allowed him to enter upon and hold, without restriction, that part of his territory which he did not choose to grant to them.

3. That from 1794 to 1823 King Capella and his successors did no act which lessened their authority or dominion.

4. That in 1823 the then King Capella ceded his territory between the Dundas and English Rivers and the Mapoota River to the Crown of Great Britain, as he had full right to do. That the Act of October, 1823, does not invalidate that cession, and consequently that Great Britain is entitled to the sovereignty of the territory so ceded, and that Portugal has no territorial rights south of the River Lorenzo Marques, or English and Dundas Rivers.

5. That the territory over which the Crown of Portugal has of right exercised dominion and jurisdiction, being thus bounded on the south by the English River, that Crown has no territorial or other rights to the east of the Mapoota River, or on the shores washed by the waters of Delagoa Bay, south of the English River, or to the Inyack Peninsula, or to Inyack and Elephant Islands.

6. That the territories so situated, named or described, belonged to the King of Mapoota, who made the Treaty of August, 1823, with Great Britain. That the King of Mapoota was a free and independent Chief for the purposes of that Treaty, which cannot be invalidated by the Portuguese Act of October, 1823.

The Marquis de Palmella insists strongly on the IInd Article of the Convention of the 28th July, 1817, as furnishing the most evident proof of the explicit and formal acquiescence of the British Government in the rights of sovereignty possessed by the Crown of Portugal over all the territory on the eastern coast of Africa between Cape Delgado and the Bay of Lorenzo Marques, and he suggests that Captain Owen in making Treaties with the Chiefs of Tembé and Mapoota must have been ignorant of this Convention.

This argument of the Marquis de Palmella is referred to and repeated with some triumph by the successive Ministers of Portugal, who have had to communicate with the British Government on the subject, and they all, with the exception of Count Figanieri e Morao, who cordially admits the reason why the last letter of the Marquis de Pamella was not answered, assume that the silence of the British Government proceeded only from the irresistible force of the argument of the Marquis.

Her Majesty's Government submits to the consideration of the Arbiter that the effect contended for by the Portuguese Government cannot be given to this Convention.

The Convention itself had no reference to the limits or boundaries of the Portuguese possessions on the eastern coast, but merely regulated the Traffic in Slaves.

The words are—

The territories in which the Traffic in Slaves continues to be permitted under the Treaty of the 22nd of January, 1815, to the subjects of His Most Faithful Majesty, are the following :—

"1. The territories possessed by the Crown of Portugal upon the coast of Africa to the south of the Equator; that is to say, upon the eastern coast of Africa, the territory lying between Cape Delgado and the Bay of Lorenzo Marques; and upon the western coast, all that which is situated from the 8th to the 18th degree of south latitude.

"2. Those territories on the coast of Africa to the south of the equator, over which His Most Faithful Majesty has declared that he has retained his rights, namely—

"The territories of Molembo and Cabinda upon the western coast of Africa, from 5° 12' to 8° south latitude."

It is submitted on the part of the British Government—

1. That the words of this Article do not admit the possession by Portugal of *all* the territory lying between Cape Delgado and Lorenzo Marques, but permits the Traffic in Slaves from the territory possessed by Portugal between those two places. This is clear from the use of the word *all* in reference to the extent of Portuguese territory on the western coast, and the omission of the word "all" in reference to the territory on the eastern coast.

If the whole territory between Delgado and Lorenzo Marques had been intended, the words would have been, "on the eastern coast of Africa, *all* the territory lying between Cape Delgado and the Bay of Lorenzo Marques; upon the western coast, all that which is situated between the 8th and 18th degrees of south latitude." If it be asked, what, then, is the extent of territory on the east coast which Great Britain admits by this Convention to have been possessed by Portugal, the answer is not far to seek for.

The admission comprehends those islands and settlements on the coast over which the Portuguese exercised jurisdiction and held the dominion, such as Ibo, Mozambique, Quilimane, Sofala, Angoxa, the Zambesi, and Lorenzo Marques.

That this is the true construction of the Article is further shown by the fact that the extent of Portuguese territory into the interior country is not named, much less recognized, and cannot consistently with any rule of international law, or the practice of nations, be extended indefinitely into the interior. The limits in that direction must be confined to the territory actually held by the Portuguese, and not by others.

The test of possession into the interior is occupation and dominion, and the same test must be applied to land lying north and south of any Portuguese fort or factory.

The accuracy and precision of the language in the one case, compared with the vague and indefinite expressions in the other case, mark clearly that the whole territory defined on the western coast was intended; those parts only of the territory described on the eastern were intended which the Portuguese held and occupied.

2. Delagoa Bay is not the expression used in the Article, but the Bay of Lorenzo Marques.

If the distinction between these two bays, which is contended for by the British Government, is well founded, then it is clear that the right interpretation of

Appendix V,
Inclosure 10.

5. Argument drawn
from the IInd Article
of the Convention of
1817.

the Article must be "the territory lying between Cape Delgado and the Bay of Lorenzo Marques, possessed by the Crown of Portugal." This interpretation would limit the territorial rights of Portugal consistently with the fact, and includes the fort and factory of Lorenzo Marques as the southernmost limit, as Cape Delgado was the northernmost limit of the possessions of Portugal.

3. The Marquis de Palmella, in his letter of 22nd May, 1828, assuming that the Bay of Lorenzo Marques means the larger bay, argues that the word "exclusively," or the word "inclusively," must be understood after the words Lorenzo Marques, for otherwise, as he says, the point in the bay where the Portuguese possessions end, would have been expressly named.

The word "exclusively" could not, as he contends, be the word to be understood, because, as a matter of fact, the Portuguese had possessions within the bay. And therefore he concludes that the word "inclusively" must be understood.

Is the argument well founded? Is there any necessity for supposing that either word, "exclusively" or "inclusively," must be understood in order to give effect to the Article?

If, as was well answered by Sir A. Magenis, the word "inclusively" is to be understood, and the larger bay be intended, the result would be to give to Portugal territory far south of any possessions which she has hitherto held.

The word "inclusively," therefore, could not have been in the intention of contracting parties. The English negotiator would have objected to the word if it was to be inserted; the Portuguese negotiator would not purposely have suppressed the word, and by an artifice have gained an unworthy advantage for his country.

The facts of the case were palpable; no understanding or reservation was needed; neither word was required to make the Article plain and intelligible when put in relation to the existing state of things.

The Article meant, as has been pointed out, the territory possessed by Portugal, so far as she possessed territory on the Bay of Lorenzo Marques, and not beyond the natural boundary of the river, upon the left or northern bank of which she had her last establishment to the south.

This correspondence between the two Governments arose out of circumstances connected with the seizure by the Portuguese of the English brig "Eleanor," and her subsequent release and dispatch to England by Captain Owen.

The discussion, however, at a very early period, assumed (as has been seen) a much more important aspect, showing the real ground of controversy between the two countries.

The matter of the "Eleanor," indeed, was put an end to, and the Portuguese Government paid a sum of money to the owners of the "Eleanor" as compensation for the illegal conduct of the authorities in respect to the seizure of that vessel.

This payment, however, was made upon grounds entirely distinct from any territorial question.

The political state of affairs in Portugal at the time (1828) prevented all further discussion on the respective rights of the two Governments to territorial rights on the east coast of Africa; and with the exception of a remonstrance on the part of the English Government in 1855 against the alleged facilities afforded by the Portuguese for the introduction of arms and ammunition through the territory held by them in Delagoa Bay, no communication on the subject passed between the two Governments until 1858.

A correspondence took place at that time between the two Governments with reference to the seizure by the Portuguese authorities at Lorenzo Marques of the of the British cutter "Herald," on King George River, for a breach of the general Customs Regulations for the Province of Mozambique. In this case the Portuguese Government finally admitted that the Portuguese authorities were in the wrong, and paid compensation to the British subjects whose property had been seized, and whose persons had suffered injury.

But the question in that case, as in the subsequent case of the "Agnes," were quite distinct from the matters now before the Arbitrator, and the case is only noticed in order that no question which has arisen between Portugal and Great Britain on the south east coast of Africa and in the neighbourhood of Delagoa Bay should pass unnoticed.

On the 5th November, 1861, possession was formally taken by Her Majesty's ship "Narcissus," of Inyack and Elephant Islands, in the name of Her Majesty, and those Islands were declared to be dependencies of the British Colony of Natal.

Against this act the Governor of Lorenzo Marques at once protested, and the Governor of Mozambique also protested when he received information of the transaction.

And, on 22nd February, 1862, Count Lavradio, then Portuguese Minister in

London, wrote to Lord Russell, Secretary of State for Foreign Affairs, stating the facts which had been communicated to him in reference to the occupation of Inyack and Elephant Islands, requiring a strict investigation to be instituted upon the alleged acts, and a reparation for the proceeding, which he described as inexplicable.

Count Lavradio was answered that Her Majesty's Minister at Lisbon had been instructed to communicate to the Portuguese Government the reply of Her Majesty's Government to his note.

On the 18th March, 1862, Sir A. C. Magenis, in accordance with the instructions which he had received, wrote to the Marquis de Loulé. Appendix XII.

Sir A. Magenis denied in explicit terms the right of the Portuguese Government to any territory south of Lorenzo Marques, and he stated that such territory had been fully and lawfully ceded to the British Crown, and that Her Majesty's Government adhered to the view taken by Lord Dudley in his note of 5th December, 1827, to the Marquis de Palmella, both as to the limits of the Portuguese territory and as to British rights. Appendix VI.

Arguing on the terms of the IIInd Article of the Convention of 1817, Sir A. Magenis pointed out the practical distinction between the Bay of Lorenzo Marques, which is a small bay in front of the Portuguese factory so-called, and at the mouth of a river also called Lorenzo Marques, and the large bay called Delagoa Bay, and he showed that, if the Portuguese Convention were right, and that the words of the Convention comprised the shores of the larger bay, they would extend the Portuguese territory for many miles south of the most southern of their establishments.

He observed that the original Portuguese factory was situated on the left or northern bank of the Lorenzo Marques River, and although, after the destruction of that factory by some French cruizers, it was removed to the southern bank in the Tembé territory, yet the Portuguese paid an annual present as a quit rent for the lands they so temporarily occupied to King Capella.

No answer was returned to this note of Sir A. Magenis, but in October, 1862, it appeared that Viscount Sá de Bandeira, who was then filling the post of Foreign Minister at Lisbon during the temporary absence of the Marquis de Loulé, suggested in conversation with Mr. Herries, that all the conflicting territorial claims of Portugal and Great Britain in Africa should be finally adjusted by a general convention embracing the whole of the questions in dispute.

This proposal was not official, and Her Majesty's Government did not entertain the suggestion, because it referred not merely to the territorial question on the south-east coast, but also to the similar question on the western coast, and some difficulty existed at the time against referring the latter question.

A correspondence between the two Governments, extending over several years (1863 to 1866), began in 1863.

This correspondence, however, related to the alleged seizure of a British vessel the "Agnes" in the King George River by the Portuguese authorities of Lorenzo Marques; the correspondence, therefore, has no bearing at all upon the rights now in question.

It is right, however, to state that, on a full consideration of the circumstances of that case of the "Agnes," the British Government admitted the Portuguese authorities to be free from all blame.

In 1868 the attention of the British Government was called to a Proclamation of the President of the Transvaal Republic, from which it appeared that, with the view of obtaining a suitable harbour that Republic proposed to annex to its territories the whole course of the River Umsuti, otherwise Maputa, on the grounds that that river had its rise in territory belonging to the Republic, that the mouth of the river in Delagoa Bay had been declared free by the English Government in 1867, and that there existed a suitable harbour on the east coast, which was not in possession of any European power. Appendix XIII.

Immediate action was taken upon this Proclamation being known, and the authorities of the Transvaal Republic were informed that Her Majesty's Government claimed the territory situated on the Banks of the Maputa, and had never declared that river to be free.

Her Majesty's ship "Petrel" was also sent to ascertain if any settlement had been made upon, or any possession taken of any part of the territory, over which Her Majesty's Government claimed dominion.

The Portuguese Government, assuming that the object of the British Government in sending the "Petrel" was to take possession of Tembé and Maputa, at once protested against this act, and Senhor Figanieri e Morão, the Portuguese Chargé d'Affaires in London, addressed a note on the subject to Lord Clarendon, in which he repeated Appendix XIV.

the assertion of the rights of Portugal, and the grounds of those rights previously brought forward by the Marquis de Palmella.

In this letter of Senhor Figaniere e Morão will be found the true reason why no answer was sent to the letter of the Marquis de Palmella, in which the grounds of the Portuguese claim were first stated.

The Arbiter will observe that, in all the communications made by the several Portuguese Ministers, subsequent to the letter of the Marquis de Palmella, the same reasons are alleged in support of the alleged Portuguese rights. And in each of the communications it is stated, with some air of triumph, that the reasons of the Marquis were not to be refuted, and never were answered.

The real cause, however, of this silence on the part of Great Britain, is cordially admitted by Senhor Figaniere e Morão. He says, "the correspondence was interrupted in consequence of the civil war which broke out in Portugal in that year."

The silence of the British Government may rather be attributed to consideration for the calamities of Portugal, than to the impossibility of answering the arguments of the Marquis de Palmella.

To the note of Senhor Figaniere e Morão an answer was sent, and that correspondence ended, with a further letter of acknowledgment from Senhor Figaniere e Morão.

Shortly, however, after this attempt on the part of the Transvaal Republic, negotiations were set on foot between the Portuguese Government and the authorities of that Republic, which, to all appearance, led to the conclusion of a Treaty of Amity and Peace, and Boundaries, which will presently be noticed.

In the meantime it became known that the Portuguese had, on the 5th April, 1869, taken possession, by an armed force, of the northern end of the Island of Inyack, and Sir C. Murray wrote to the Duke de Saldanha on the subject.

Senhor C. Bento de Silva answered Sir C. Murray, that orders had been given to withdraw the Portuguese garrison from Inyack, upon the grounds that, while negotiations were pending, it appeared to him that neither of the two Powers should occupy the territories in question.

Some misapprehension appears to have existed in the mind of the Portuguese Minister for Foreign Affairs in thinking that any negotiations respecting Delagoa Bay were then pending between the two Governments; but this misapprehension is of no importance to the solution of the question upon which the decision of the Arbiter is now sought by both Governments.

After a further correspondence the troops were withdrawn.

Matters were, however, brought to a crisis by the publication of a Treaty between the South African Republic and the Portuguese Government, which was ratified in July 1870.

The XXIIIrd Article, and 2nd paragraph of this Treaty, stated the southern boundary of the Portuguese possessions to be on a line with 26° 30' south latitude.

The fact of this Treaty having been made, soon reached the knowledge of the British Government, and Her Majesty's Representative at Lisbon, Sir C. Murray, wrote to the Marquis d'Avila, the Portuguese Foreign Minister, on 25th April, 1871, and formally protested against the right of Portugal to treat as a part of the Portuguese territory lands which Great Britain had officially, distinctly, and uniformly declared to be no part of the Portuguese possessions.

A further letter, asking for information from the Portuguese Government in reference to a Proclamation of President Pretorius, was written to the Marquis d'Avila by Sir C. Murray on 26th April, 1871; and no answer having been returned to either of these letters, Mr. Doria, Chargé d'Affaires at Lisbon, wrote on 24th May, 1871, to the Marquis d'Avila, requesting the favour of an answer.

This answer was written on the 3rd July, 1871. The Marquis d'Avila, in this answer, repeats the arguments used by the Marquis de Palmella in his letter to Lord Dudley, in May 1828, to which the attention of the Arbiter has already, in pages 8, 9, 14, 16, 21, been called at considerable length, and the Marquis d'Avila then proceeded to state that the British Government had not replied to the Marquis de Palmella's letter, but had allowed thirty-three years to elapse in silence, not being able to refute the arguments of the Portuguese Ambassador, and had then seized the northern ends of Inyack Island and Elephant Island—an act which the Marquis d'Avila characterizes as an assumption of the right on the part of the British Government to interpret by themselves alone an Article of the Convention of 1817.

But when the Marquis d'Avila thus spoke of the British occupation of Inyack and Elephant Islands, he must have forgotten, for the moment, the more recent occupation of the former island by the Portuguese.

Appendix XV.

Appendix XVI.

Appendix XVII.

Appendix XVIII.

Appendix XIX.

Appendix XX.

Appendix XXI.

Appendix XXII.

Appendix XXIII.

Appendix XXIV.

Appendix XXV.

And the very next sentence but one in his letter, in which he writes that the most recent recognition of the rights of Portugal to the boundary line of $26^{\circ} 30'$ south latitude is the Treaty with the South African Republic, seems a strong instance of an arbitrary interpretation put upon the Article of the Convention of 1817 by the Portuguese themselves.

The fact may be that the Portuguese Government availed itself of the opportunity of the Treaty with the South African Republic to obtain this species of recognition from the Republic to oppose to the well-known contention of the British Government that the true limit of the Portuguese territory was the River Lorenzo Marques, near the centre of Delagoa Bay.

To a subsequent application made by Mr. Doria on 17th July, 1871, the Marquis d'Avila declined to make any further reply than that contained in his letter of 3rd of July. Appendix XXVI.
Appendix XXVII.

At this period the British Government, by a note, 28th September, 1871, suggested that the differences between the two Governments should be submitted to the arbitration of a third Power; an offer which had been previously made on the part of Portugal by the Marquis Sá de Bandeira in a note to Sir C. Murray, on 3rd of February, Appendix XXVIII.
Appendix XXIX.

Her Majesty's Government, however, declined at that time to refer the difference between the two Governments on the south-east coast of Africa to arbitration, because other matters were at the time referred with reference to territories on the west coast.

To this proposal on the part of Her Majesty's Government to submit the matter to the arbitration of a third Power, the Portuguese Government willingly acceded on the 26th October, 1871. Appendix XXX.

Ultimately, and on the suggestion of the British Government, M. Thiers, then President of the French Republic, was chosen as Arbiter, an office which he was pleased to accept. Appendix XXXI.

In order to fix with precision the question to be referred to the Arbiter, a letter was addressed to Senhor Corvo on 25th January, 1872, requesting him to furnish, on behalf of the Portuguese Government, the exact limits of the territory claimed by Portugal, accompanied by a map or plan of those limits. Appendix XXXII.

This request was complied with on 19th February, 1872, in a letter addressed to Sir C. Murray by Senhor Corvo, in which he recapitulated the grounds upon which Portugal claimed the territories in dispute, gave a short history of the several acts on the part of both Governments, already stated at length in this Case, annexed a map showing the limits of territorial possession claimed by Portugal, and marked by a blue tracing, and stated that "on the south the line of boundary of the Portuguese is placed in $26^{\circ} 30'$ south latitude from the sea as far as the ridge of interior mountains called Lobombo." Appendix XXXIII.

This claim to territory, extending to $26^{\circ} 30'$, goes beyond the Bay of Delagoa to the south, and includes land which in no sense can be brought within the contention of the Portuguese Government, so constantly put forward in the correspondence, that under the IInd Article of the Convention of 1817 Great Britain had acknowledged the rights of Portugal to the southern extremity of Delagoa Bay, inclusive.

After some delay in settling the exact tenor of the Protocol, this instrument was signed at Lisbon on 25th September, 1872, and nothing remained except to obtain the consent of the Arbiter to act in that capacity.

The Representatives of England and Portugal accordingly each addressed a note in identical terms on 1st November, 1872, to M. de Rémusat, to which they received an answer, dated 6th of November, from M. de Rémusat, signifying the consent of the President of the French Republic to accept the office of Arbiter. Appendix XXXIV.

Her Majesty's Government, relying upon the facts which have now been laid before the Arbiter, and the conclusions which both in law and equity are to be drawn from these facts, leaves the decision of this Case to the judgment of the Arbiter, with perfect confidence that his experience and discrimination will bring him to the right solution of the question.

APPENDIX I.

SURVEY of Delagoa Bay, or Lorenzo Marques, on the East Coast of Africa, by the Officers of Her Majesty's ships "Leven" and "Barracouta," under the direction of Captain W. F. W. Owen: 1822.

APPENDIX II.

Protocol signed at Lisbon, in the English and Portuguese Languages.

Protocol of a Conference held at the Foreign Office in Lisbon, on the 25th of September, eighteen hundred and seventy-two, between Her Britannic Majesty's Chargé d'Affaires at the Court of Lisbon, and the Minister and Secretary of State for Foreign Affairs of His Most Faithful Majesty.

WHEREAS the Government of Her Britannic Majesty asserts a claim to certain territories formerly belonging to the Kings of Tembé and Mapoota, on the eastern coast of Africa, including the Islands of Inyack and Elephant; and whereas the Government of His Most Faithful Majesty asserts a claim to a portion of the same territories, as far as 26 degrees 30 minutes; and whereas both Parties, being animated by a friendly feeling, and neither of them having any wish to appropriate territory which may lawfully belong to the other, have consented to refer their respective claims to the arbitration of a third Power, in whom both repose confidence.

For this purpose, they have agreed to apply to the President of the French Republic; and it now becomes necessary to place on record certain terms and arrangements with a view of obtaining the speedy and convenient hearing and determination of the claims in question; and the Undersigned, William Doria, Her Britannic Majesty's Chargé d'Affaires at the Court of Lisbon, and the Councillor Joao de Andrade Corvo, Minister and Secretary of State for Foreign Affairs of His Most Faithful Majesty, being duly authorized by their respective Governments, have agreed as follows:—

I.

The respective claims of Her Britannic Majesty's Government, and of the Government of His Most Faithful Majesty, to the territories and islands above-mentioned, shall be submitted to the arbitration and award of the President of the French Republic, who shall decide thereupon finally and without appeal.

II.

The award of the President of the French Republic, whether it be wholly in favour of the claim of either Party, or in the nature of an equitable solution of the difficulty, shall be considered as absolutely final and conclusive; and full effect shall be given to such award, without any objection, evasion, or delay whatsoever. Such decision shall be given in writing, and dated; it shall be in whatever form the President may choose to adopt; it shall be delivered to the Ambassadors, Ministers, or other public Agents of Great Britain and of Portugal who may be actually at Paris, and shall be considered as operative from the day of the date of the delivery thereof.

III.

The written or printed Case of each of the two Parties, accompanied by the evidence offered in support of the same, shall be laid before the President within twelve months from the date hereof; and a copy of such Case and evidence shall be communicated by each Party to the other through their respective Ambassadors or Ministers at Paris.

After such communication shall have taken place, each Party shall have the power of drawing up and laying before the President a second and definitive statement, if it think fit so to do, in reply to the Case of the other Party so communicated, which definitive statement shall be so laid before the Arbitrer, and also be mutually communicated in the same manner as aforesaid by each Party to the other within twelve months from date of laying the first statement of the Case before the Arbitrer.

IV.

If, in the Case submitted to the Arbitrer, either Party shall specify or allude to any Report or Document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof. And if the Arbitrer should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either party; and he shall be at liberty to hear one counsel or agent for each Party in relation to any matters which he shall think fit for argument, and at such time and in such manner as he may think fit.

V.

The Ambassadors, Ministers, or other Public Agents of Great Britain and of Portugal at Paris, respectively, shall be considered as the Agents of their respective Governments to conduct their case

(A Survey)
OF
DELAGOA BAY.
Sorrenço Marques.

ON THE EAST COAST OF AFRICA.

by the Officers of

H.M. SHIPS LEVEN & BARRACOUTA.

under the direction of

Capt. W. F. W. Owen.

1822.

Vertical in 1861 decreasing 2 annually
The Longitudes depends on that of the Cape (Greenwich) being considered 18° 28' E
High Water at St. John's Island 8 30" 1822 at first

at the Portuguese Factory 5 30" 1822 at first

SOUNDINGS IN FATHOMS



before the Arbiter, who shall be requested to address all his communications, and give all his notices to such Ambassadors, Ministers, or other Public Agents, whose acts shall bind their Governments to and before the Arbiter on this matter.

VI.

It shall be competent to the Arbiter to proceed in the said arbitration, and in all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose; either with closed doors, or in public sitting; either in the presence or absence of either or both Agents; and either *viva voce*, or by written discussion or otherwise.

VII.

The Arbiter shall, if he thinks fit, appoint a Secretary, Registrar, or Clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

VIII.

The Arbiter shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to in relation to this matter, which shall forthwith be repaid in two equal portions, one by each of the two Parties.

IX.

The Arbiter shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said Agents.

Should the Arbiter be unable to decide wholly in favour of either of the respective claims, he shall be requested to give such a decision as will, in his opinion, furnish an equitable solution of the difficulty.

Should he decline to give any decision, then everything done in the premises by virtue of this agreement shall be null and void; and it shall be competent for the British and Portuguese Governments to do and proceed in all respects as if the reference to arbitration had never been made.

Done at Lisbon, this 25th day of September, eighteen hundred and seventy-two.

(Signed)

WILLIAM DORIA.

JOAO DE ANDRADE CORVO.

APPENDIX III.

Lord Londonderry to M. d'Oliveira.

Foreign Office, February 2, 1822.

HIS Majesty's Government having appointed two small ships of war to proceed, under the orders of Captain Owen, to survey the Coast of Africa to the eastward of the Cape of Good Hope, for the benefit of navigation and general science, the Undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to request that M. d'Oliveira, His Most Faithful Majesty's Chargé d'Affaires, would have the goodness to furnish Captain Owen with letters to the Portuguese Authorities on that coast, desiring them to afford to him such refreshments and assistance as the ships may be in need of, in the event of their touching at Mozambique, or any other Portuguese settlement on their African coast.

The Undersigned has the honour to add that, as the ships are now quite ready to proceed on their voyage, His Majesty's Government are anxious to obtain these letters as early as possible.

The Undersigned, &c.

(Signed)

LONDONDERRY.

APPENDIX IV.

Captain Owen to Senhor de Botelho, Governor of Mozambique.

Sir, *"Leven," May 10, 1825.*

IN the course of my conference with your Excellency this day, it appeared that you were quite ignorant of the situation, and the political state and relations of Lorenzo Marques, called by others English River, in Delagoa Bay; and that his Excellency, the late Governor, Joao Manoel de Sylva, had not communicated to your Excellency any information on the circumstances which occurred between him and myself during his Government, either with relation to the objects of my voyage, or to the part I had been forced to act with the Portuguese factory at Lorenzo Marques; observing that you could not recognize any public acts with this Government in the time of the Constitution, and previous to the late counter-Revolution in Portugal, which re-established the Royal Authority. As I was, and am, as ignorant of your Excellency's full meaning in this declaration, which appeared uncalled for by any circumstances existing between us, as you appeared to be of everything relating to the service I have

been more than two years employed on, and a great deal of that time within the territorial limits you assign to your Government, I considered it due to the frank ingenuousness with which all my communications with your Excellency's predecessor have been marked, to offer you copies of my correspondence with him on every subject, for the purpose of making you fully acquainted with every circumstance in which I have had a part. But, on looking over the copies of that correspondence, I find it voluminous, and contains* much extraordinary matter, and would cost us more time in copying than it is worth. I shall, therefore, merely furnish your Excellency with a brief abstract of my transactions, motives, and objects during the time I have been employed on these coasts, so far as they relate to this Government or its dependencies, without making any reflections whatever on the other topics of your Excellency's communication; but, before I do this, I must beg to be understood that I have two objects only in giving myself the trouble: first, because I have, in a letter dated the 7th instant, preferred a complaint against Captain X. Schmid von Belleker, Governador Capitaô Mor,* and factor at Lorenzo Marques, for a most wanton and marked insult to the flag of my nation, by firing on a British merchant-vessel, and by striking the flag left in Temby by Commodore Nourse, and hoisting a Portuguese one in its place, at the very time when the question may be before our Courts for adjustment; and also for subjecting the officer of a British vessel to unnecessary insult and indignities; and, secondly, because I really am desirous, on the score of humanity, to make you acquainted with the real state of those countries, to enable your beneficence to withdraw the iron hand and wicked despotism of your subordinates, who too frequently are a curse to the miserable but amiable Africans, repelling every attempt to ameliorate their condition.

The first port I arrived at on this coast was English River in Delagoa Bay, or Lorenzo Marques, where I found a small Portuguese factory and fort, commanded by a Captain Jaques Casimir, who had succeeded a Senhor Oliveira, who but a short time previous had killed himself.

Under the impression (a false but very common one, founded on ignorance) that all the surrounding country and coast was under Portuguese jurisdiction and authority, I showed Senhor Casimir my papers from the Portuguese Ministry, and asked his permission to survey the rivers, in obedience to my orders, and his protection from the natives where necessary. His answer was, that the whole country was free and independent; that the Portuguese had no authority beyond the precincts of the fort; and that he was in hourly fear himself of an attack by the native Vatas even in his fort, and they had already laid waste the surrounding country, and therefore that he had no means of furnishing protection to any boats beyond the reach of his guns.

We surveyed all those rivers, and my people were really attacked by several hundreds of the said Vatas, in their tents, in the middle of a night, but were repulsed with loss. To this circumstance it may be attributed that that body of near 5,000 warriors did not attack your petty fort, as they had promised to do, for I sent their chief a message either to send me hostages for his peaceable conduct, or to quit the country of Matoll, where he was encamped, in twenty-four hours;† he chose the latter, and we again met on the banks of the Manica, and whence I ordered him also to depart. It is, however, most strange that even through all this time the Commandant and officers of your fort traded with these very Vatas, for their spoils and slaves taken from the people of Temby and Matoll, &c., &c. What claim, then, can Portugal have to a dominion over them or their people? The devastation of the Vatas, and consequent famine, brought slaves to the fort for almost nothing; but, fortunately, the fort itself was in want, and could not sell food for slaves. This was the state of things, in which I had no other part than that mentioned, when my crews were attacked by malignant fever, to which many of my officers and men fell victims. I took Casimir's letters for Mozambique, and from Mozambique carried a supply of provisions for Lorenzo Marques, at the request of his Excellency Joao Manoel de Sylva. I arrived the 1st of March, 1823, and found one Senhor Miguel Lupe de Cardinas had been sent from Mozambique as Governor. Near the fort there were lying two British merchant-vessels, one named the "Singapore," of Calcutta; the other, the "Orange Grove," of the Cape of Good Hope; also a schooner of my squadron. Of these vessels the greater part of officers and men were dead or dying. Having delivered the provisions to Lupe, and commenced, as was our practice, amicable arrangements, you may imagine my astonishment at learning that Lupe had actually seized the "Singapore" in a river near twelve leagues from the factory, and had converted her cargo to his own use, and much more which stands recorded before his Excellency Joao Manoel in more than one document. Lupe had actually also sent his soldiers on board the "Orange Grove," with orders to cut her cable and to murder the only two persons on board her alive, and to let her drift on shore, where he was actually prepared, at the head of his garrison, to plunder her as a smuggler, and to dispatch the unfortunates on board her if they should have escaped his secret orders. Most fortunately this latter circumstance was not known to me at that time, and it has pleased Almighty God to judge and punish your most infamously wicked Sub-Governor himself. As he lived a man of blood, so he died.

The "Singapore" and her cargo Lupe delivered to me by my command, and by a future process in a court of justice at the Cape of Good Hope, I was enabled to claim and recover the rest of the property due to that vessel at Lorenzo Marques and at Mozambique. But these circumstances had necessarily several concomitants, and were the occasion of some correspondence with his Excellency Joao Manoel, much too voluminous to copy, but which your Excellency may read if you think proper. The savage abuse of power of the Sub-Governor of Lorenzo Marques, with respect to the "Orange Grove" and "Singapore," led me to request that his Excellency Joao Manoel would give instructions that his Governor at that place should desist from visiting with an armed force British merchant-vessels, for whom I left instructions not to submit to any such visitations. And I find with sincere regret that the person at present in power at the factory has had the audacity to recommence a similar system of insults and injury, for which it is my duty to obtain redress, either from your Excellency or by the power with which I am armed by my Government, which I most sincerely entreat your Excellency to spare me the pain of using.

* Sic.

† He was allowed four days, as appears from a note to the copy signed by Captain Owen.

On grounds which would demand too much to recount, the native King of Temby and his chiefs being free from any other obligation, thought proper to beg me to accept for His Britannic Majesty, my master, the sovereignty of their country, to which I acceded until his pleasure should be known; and that country was formally taken possession of in His Majesty's name by the late Commodore Nourse, and the British flag hoisted there on a staff he erected for the purpose. This flag Lupe hauled down, and hoisted a Portuguese flag in its place, and I caused his successor to replace the English flag. But Captain Schmid, it appears, has again committed the same fault, and has sacrificed uselessly some of his people, by pretending to act offensively in that territory. Of this repeated insult it is my duty to demand reparation, as I have done with the accompanying letter, and which I shall take occasion to see rendered.

Such further information as your Excellency may desire in detail may be seen in the copies of my correspondence, which I will with pleasure submit to your perusal; but I really do not possess the means of furnishing you with full copies of it during my projected stay in this port.

I have, &c.

(Signed) W. F. W. OWEN.

APPENDIX V.

The Marquis de Palmella to Mr. Canning.

Londres, le 17 Juin, 1826.

LE Soussigné a l'honneur de remettre ci-joint à son Excellence M. Canning l'extrait d'une dépêche qui lui a été adressée par le Gouverneur du fort situé dans la Baie de Lourenço Marques, sur la côte orientale de l'Afrique, de même que l'extrait du procès-verbal qui était joint à la susdite dépêche.

Il résulte, comme son Excellence le verra du contenu de ces deux pièces, que le Capitaine Owen, de la Marine Britannique, s'est présenté le 28 Août, 1825, devant la forteresse ci-dessus indiquée, et a réclamé la remise d'un bâtiment qui se trouvait sous le sequestre des autorités Portugaises pour avoir, en violation des lois Portugaises et des Traités existants, notamment de l'Article VIII du Traité de Commerce de 1810, fait la contrebande dans le territoire appartenant à Sa Majesté Très Fidèle; délit qui se trouve indubitablement prouvé par la découverte de 1,225 livres pesant d'ivoire, qui étaient cachées dans le fond du susdit bâtiment.

Le Gouverneur s'étant refusé comme de raison à remettre ce bâtiment, qu'il se réservait à envoyer à Mozambique, afin que la légalité de la prise fût jugée par les tribunaux compétents, il paraît que le Capitaine Owen s'est porté à des actes de menace, et qu'abusant de la supériorité de ses forces il a exigé l'évacuation de la forteresse dans l'espace de vingt-quatre heures, et la remise du bâtiment détenu, n'ayant désisté de la première de ces demandes que moyennant la concession de la seconde.

Son Excellence verra également que tandis que ces pourparlers avaient lieu de part et d'autre, un soldat de la garnison Portugaise a été tué (sans doute involontairement) par un coup de fusil parti de la frégate Britannique, dont il paraît qu'on exerçait l'équipage à la portée de fusil de la forteresse Portugaise.

Enfin son Excellence verra que le Capitaine Owen s'est engagé sur sa parole d'honneur d'envoyer le bâtiment susdit en Angleterre, afin que la question de la validité de la prise y put être discutée avec l'intervention du représentant de Sa Majesté Très Fidèle dans ce pays.

Le Soussigné, ayant reçu toutes les susdites communications de la part des autorités Portugaises de la Baie de Lourenço Marques, a cependant différé d'adresser au Gouvernement Britannique aucune réclamation jusqu'à ce qu'il eût reçu à cet égard des instructions de la part de sa Cour, et c'est à présent en conséquence des ordres qui lui ont été expédiés de Lisbonne que le Soussigné a l'honneur de s'adresser à son Excellence M. Canning pour le prier de faire procéder à l'examen du fait dont il s'agit, et pour demander la remise du bâtiment et de la cargaison dont le Capitaine Owen s'est emparé d'une manière aussi illégale, pour être jugée par les tribunaux compétents en Portugal.

Le Soussigné ne saurait douter que si le Gouvernement Britannique acquiert la preuve que le sequestre du brick "Eleanor" avait eu lieu en conséquence d'un acte flagrant de contrebande, si en outre le Capitaine Owen reconnaît lui-même qu'il a employé la violence, ou des menaces hostiles pour enlever le susdit bâtiment d'un établissement appartenant au territoire Portugais, le Soussigné ne saurait douter, il le répète, que le Gouvernement de Sa Majesté Britannique ne s'empresse de désavouer un semblable outrage, ainsi que d'accorder l'indemnisation qui paraîtra suffisante, si par hasard il n'était plus possible de recouvrer le brick et sa cargaison.

Le Soussigné demande, en outre, à son Excellence M. Canning, la permission de lui rappeler que la note qu'il a adressée à son Excellence en date du 22 Novembre, 1825, pour se plaindre d'un attentat de la même nature, à peu près, commis par le Commandant de la frégate "Redwing," dans une des îles du Cap Vert, se trouve encore sans réponse; et comme le Soussigné présume qu'il s'est écoulé déjà le temps nécessaire pour que son Excellence ait pu recueillir des informations suffisantes, il la prie de vouloir bien ne pas perdre de vue cette affaire, et soumettre à la considération de Sa Majesté Britannique combien il serait fâcheux de ne pas reprimer des actes de la nature de ceux dont il s'agit dans ces deux représentations.

Le Soussigné, &c.

(Signé)

LE MARQUIS DE PALMELLA.

*Mr. Canning to the Marquis de Palmella.**Foreign Office, July 4, 1826.*

THE Undersigned, &c., has the honour to acknowledge the receipt of the official note addressed to him on the 17th ultimo by his Excellency the Marquis de Palmella, &c., complaining of the seizure by Captain Owen, of His Majesty's ship "Leven," of a British vessel which had been confiscated by the Portuguese authorities at Bahia de Lorenzo Marques, for smuggling. The Undersigned has the honour to inform his Excellency in answer, that Captain Owen is expected in England in the course of a month, and that immediately upon his return he will be called upon for an explanation of his conduct.

The Undersigned, &c.

(Signed) G. CANNING.

*Mr. Canning to the Marquis de Palmella.**Foreign Office, April 25, 1827.*

THE Undersigned, His Majesty's principal Secretary of State for Foreign Affairs, in reference to the note on the seizure of the British vessel "Eleanor," which he had the honour on the 4th of July last to address to the Marquis of Palmella, Ambassador Extraordinary and Minister Plenipotentiary from the Court of Portugal, has now the honour to acquaint the Marquis de Palmella, that Captain Owen, of His Majesty's ship "Levant," having arrived in England, has transmitted an explanation of his conduct in requiring the restoration of the "Eleanor," after the forcible seizure of that vessel by a Portuguese detachment from Lorenzo Marques. The owner of the "Eleanor" has likewise sent in a statement of the circumstances attending that transaction.

In his Excellency's note it appears that the English vessel, while lying in Port Melville, was seized by the Portuguese authorities, on a charge of having traded in ivory at Mapoota, which his Excellency designates as belonging to His Most Faithful Majesty.

The statements both of Captain Owen and the owner of the "Eleanor" present, however, a very different view of the question,

They deny the inference drawn and the pretensions set forward by the Portuguese Governor of Lorenzo Marques; and the latter claims a heavy compensation from the Portuguese Government, for the unjust seizure and detention of his vessel.

His Majesty is anxious to do justice in this case, as well to the rights of His Most Faithful Majesty as to the fair claims of his own subjects, and with this object the Undersigned must request that the Marquis de Palmella will acquaint him upon what grounds the spot at which the vessel was trading when she was seized, is claimed as Portuguese territory; whether under actual possession by a Portuguese force; whether under a recognized cession of the territory by the native chief; or under any other act or compact recognized by the law of nations as giving an unquestionable right of sovereignty over the spot.

The Undersigned, &c.

(Signed) G. CANNING.

*The Marquis de Palmella to Lord Dudley.**Londres, le 23 Mai, 1827.*

LE Soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Très Fidèle, a l'honneur d'annoncer à son Excellence Lord Dudley qu'il a reçu la note par laquelle le Principal Secrétaire d'Etat de Sa Majesté Britannique au Département des Affaires Etrangères, prédécesseur de son Excellence, a répondu à celle que le Soussigné lui avait adressée en date du 17 Juin, 1826, pour se plaindre de la violence commise par le Capitaine Owen, commandant du vaisseau Britannique "Leven," en enlevant de vive force le navire "Eléonora," qui se trouvait détenu légalement dans le port de la forteresse Portugaise de la Baie de Lorenzo Marques.

Il paraît que le Capitaine Owen cherche à fonder sa justification sur ce que le susdit navire aurait été saisi par les autorités Portugaises comme faisant la contrebande à Mapoota, et il révoque en doute les droits de la Couronne de Portugal sur ce territoire.

Son Excellence M. Canning, en donnant connaissance au Soussigné de l'allégation du Capitaine Owen, ajoute que le Gouvernement de Sa Majesté Britannique désire, comme il est naturel, faire justice aux droits de Sa Majesté Très Fidèle, ainsi qu'aux réclamations de ses propres sujets, et il demande à être informé des principes sur lesquels se fonde le droit de souveraineté de la Couronne de Portugal sur le territoire en question.

Le Soussigné prendra, cependant, d'abord la liberté d'observer que, lors même que le droit de souveraineté de Sa Majesté Très Fidèle sur tous les territoires contenus dans la Baie de Lorenzo Marques ne serait pas, comme il est, incontestable, la conduite du Capitaine Owen dans l'occasion dont il s'agit ne lui paraîtrait pas moins répréhensible. Car le navire "Eléonore" se trouvant détenu dans un port Portugais, et la légalité de sa détention devant être soumise à une cour de justice, les sujets de Sa Majesté Britannique auraient pu en réclamer légalement la remise, et auraient eu droit à des indemnités contre toute lésion injuste; mais le Capitaine Owen, en employant la force pour l'enlever, s'est constitué lui-même juge dans une cause qui n'était pas de son ressort, et a évidemment commis un attentat contre la loi des nations, et contre les relations d'amitié qui subsistent heureusement entre les deux Couronnes.

Cette question paraît au Soussigné n'admettre aucun doute, et il espère de l'esprit d'équité et d'impartialité du Gouvernement Britannique une réparation complète, et la restitution du vaisseau,

pour être jugé par les tribunaux Portugais compétents ; Sa Majesté Britannique ayant toujours, comme de raison, le droit de réclamer, dans les formes ordinaires, en faveur de ses sujets dans le cas improbable où ils se trouveraient lésés.

Après avoir fait cette déclaration, que son devoir lui dicte, le Soussigné passera à répondre aux questions qui lui sont adressées dans la note de son Excellence M. Canning, avec d'autant plus d'empressement qu'il a reçu de son Gouvernement des ordres réitérés pour protester contre les actes faits par le Capitaine Owen pendant son séjour dans la Baie de Lorenzo Marques ; actes qui tendent à dépouiller la Couronne de Portugal de la possession légitime, dans laquelle elle est depuis des siècles, d'une partie du territoire compris dans cette baie, et c'est là le point essentiel de la réclamation du Soussigné.

Les droits de la Couronne du Portugal s'établissent : 1. Sur la priorité qu'on ne saurait lui contester de la découverte de cette contrée dès les premiers voyages des Portugais dans l'Inde. 2. Sur les établissements qui y ont été fondés et qui existent encore maintenus par une forteresse dans la baie même de Lorenzo Marques, où le Gouvernement de Moçambique envoie une garnison. 3. Sur des pactes et des actes de reconnaissance continuellement réitérés depuis plusieurs siècles par les chefs des peuplades nègres qui habitent cette côte, et qui ont invariablement reconnu la suprématie et la souveraineté de la Couronne de Portugal. 4. Enfin, sur l'admission constante de tous les Gouvernements Européens qui ont jusqu'à cette heure respecté ces droits, comme on peut le vérifier par l'inspection des cartes géographiques.

L'Article II de la Convention du 28 Juillet, 1817, dont le Soussigné joint ici la copie, fournit la preuve la plus évidente de l'acquiescement explicite et formel du Gouvernement Britannique lui-même aux droits de souveraineté de la Couronne de Portugal sur tous les territoires de la Côte Orientale d'Afrique compris entre le Cap Delgado et la Baie de Lorenzo Marques. Inclosure 10.

Le Capitaine Owen, ignorant, sans doute, l'existence de cette Convention, et poussé par un zèle que le Soussigné osera d'accuser d'indiscrétion, a profité de son séjour dans la Baie de Lorenzo Marques pour conclure avec les chefs du territoire du Temby et de Mapoota des espèces de Traités par lesquelles ceux-ci se reconnaîtraient comme sous la protection de la Grande Bretagne, en violation évidente des actes de reconnaissance antérieurs par lesquelles ces mêmes chefs ont depuis longtemps reconnu la souveraineté de la Couronne de Portugal. Les autorités Portugaises du voisinage ont de suite protesté formellement contre ces actes, et le Soussigné croit qu'il n'est pas nécessaire de se livrer à une discussion juridique pour démontrer l'invalidité de semblables contrats conclus avec les chefs de peuplades à demi sauvages lors même qu'ils ne se trouveraient pas en contradiction avec des Traités antérieurs. Les droits de souveraineté sur la plus grande partie des territoires possédés par les Etats Européens en Afrique où en Amérique seraient difficile à soutenir si on voulait en soumettre la légalité à une controverse avec les naturels du pays, et si l'on ne se contentait pas en général de les établir sur la date de la découverte et la fondation d'établissements Européens. Inclosures 3, 6, 7 and 8.

Mais cependant s'il était besoin dans ce cas-ci d'opposer aux Traités du Capitaine Owen d'autres documents analogues, il serait aisé d'en présenter ; et le Soussigné en fournira la preuve en remettant ci-joint pour l'inspection de son Excellence Lord Dudley les copies de plusieurs actes et déclarations authentiques qui constatent les relations de souveraineté existants entre la Couronne de Portugal et les chefs du territoire avec lesquels le Capitaine Owen a traité. Il y joindra, pour mieux éclaircir la question, des copies du Traité et d'une partie de la correspondance du Capitaine Owen, et il réclame surtout l'attention du Gouvernement de Sa Majesté Britannique sur la lettre adressée par le susdit Capitaine au chef de la factorerie Portugaise (marquée D), contre le contenu de laquelle le Soussigné est obligé de protester et proteste officiellement au nom de Sa Majesté Très Fidèle. Inclosures 1, 4, and 5.

Le Soussigné observera que le Capitaine Owen lui-même a paru subséquemment douter (voyez la pièce ci-jointe, F) d'arborer le pavillon Britannique sur le territoire de Temby, quoique dans la lettre précédemment citée il se fût arrogé ce droit. Le Capitaine Owen, tout en avouant que les Portugais possédaient des factoreries dans ces mêmes territoires, a prétendu que ces factoreries ne prouvaient pas la domination de la Couronne de Portugal, et n'étaient établies que pour des objets de commerce. Cependant, il est de fait que tous les établissements Portugais sur la côte d'Afrique ont porté au commencement le nom de factoreries, sans que les droits de la Couronne de Portugal aux territoires environnants en soient pour cela moins généralement reconnu. Inclosure 8.

Le Soussigné joindra aux autres pièces annexées à la présente note une copie de la note qui a été adressée par le feu Lord Londonderry au Chargé d'Affaires de Portugal, au moment du départ de l'expédition du Capitaine Owen ; et son Excellence Lord Dudley avouera que le Gouvernement Portugais aurait dû être loin de s'attendre à l'esprit d'empiétement et de chicane que cet officier paraît avoir manifesté pendant son séjour dans les établissements Portugais. Inclosure 9.

La première question traitée dans cette note, c'est-à-dire, celle qui a rapport au navire "Eléonore," devient ainsi une accessoire de la seconde. C'est sur cette seconde question que le Soussigné réclame, surtout, l'attention de son Excellence Lord Dudley. Il est persuadé que le Gouvernement Britannique ne choisirait pas le moment actuel pour révoquer en doute les droits qui n'ont jamais jusqu'à présent été contestés à la Couronne de Portugal, et que Sa Majesté Britannique elle-même, dans la Convention du 28 Juillet, 1817, a explicitement reconnus. Et c'est dans cette persuasion que le Soussigné réclame, que les actes du Capitaine Owen dans la Baie de Lorenzo Marques soient formellement désapprouvés, et que les navires Britanniques se soumettent dans la susdite baie aux mêmes lois et règlements qu'ils observent dans les autres possessions de la Couronne de Portugal. Appendix III.

Le Soussigné, &c.

(Signé)

LE MARQUIS DE PALMELLA.

Inclosure 1.

Grant of Land by King Capella to Portugal, November 10, 1794.

IN the year of the birth of our Lord Jesus Christ 1794, on the 10th November, in the country of King Capella and district of Masangana, there being present here the Governor, *ad interim*, José Correia Monteiro de Mattos, together with the officers and the non-commissioned officers and soldiers signed underneath, appeared before me the said King Capella, in company with his Councillors and relations, and King Capella said that, of his free, spontaneous will, he granted to the Crown of the Kingdom of Portugal the land extending from the borders of Masangana, on the south-east, to the distance of a league along the sea coast towards the east, and a quarter of a league up the country in breadth; and he added that the grant was made by him in acknowledgment of the countenance he received from the Governor of this Bay, Senhor Correia Monteiro de Mattos, who, notwithstanding the inconvenience it occasioned to himself, reinstated the King in his realm, of which he had been dispossessed by some of his rebellious subjects; and he farther said, that the inhabitants of the lands presented by him to the Crown of Portugal were placed under authority of this Government, and that our Sovereign the Queen of Portugal might dispose of the grant as she pleased; so, likewise, all his Councillors, namely, José Suisque, Mamajuari Guanguane, Chirinda Bengue, Cochoube Cambane, Maanhim Julhati, Toluane Chireti, Majouce Pochane, Maxixuene, unanimously gave permission, and the Governor, *ad interim*, took possession in the name of Her Most Faithful Majesty the Queen of Portugal; and because King Capella and his Councillors had given such possession, they took an oath, pursuant to the custom of their nation, and signed this with their usual signatures. And to attest the truth of the conveyance of this possession, I, John Gonçalves de Siqueira, Clerk to the Royal Treasury, have drawn up this Public Act, and have written and signed it.

Bay of Lorenzo Marques, November 10, 1794.

(Signed)

JOHN GONCALVES DE SIGUEIRA.
Mark of KING CAPELLA.
Mark of JOSE SUISQUE.
Mark of MAMUJUARI GUANGUANE.
Mark of CHIRINDA BENGUE.
Mark of COCOUBE CAMBANE.
Mark of MAANHIM JULHATI.
Mark of TOLUANE CHIRETI.
Mark of MAJOUCE POCHANE.
Mark of MAXIXIVENE.

(Certificate.)

Secretary's Office.

I, José Correia Monteiro de Mattos, Governor, *ad interim*, of this Bay, certify the fact of my having taken possession, in the name of Her Most Faithful Majesty the Queen, of the lands given by King Capella to the Crown of the Kingdom of Portugal, in token of his acknowledgment for the aid which he received from this Government in being reinstated in his kingdom, of which he was dispossessed; and to bear witness to my having actually taken possession, I have signed this, along with the officer and non-commissioned officers and soldiers of the garrison in the Bay of Lorenzo Marques, November 10, 1794.

(Signed)

JOSE CORREIA MONTEIRO DE MATTOS,
Lieutenant-Commandant.
LUIZ TOZE, *Ensign.*
PEDRO SEINIAO, *Sergeant.*
JOAO ANTONIO DE AYCOEDO, *Corporal.*
JOSE MIGUEL DE PAIVA.
MANOEL ANTONIO GONZALVES.
JOAQUIM JOSE MASCARENHAS.
FRANCISCO XAVIER DA FONCEIA.
JOAO JOSE.
SALVADOR LEITE PEREIRA.
RODRIGO DE CARVALHO.
JOSE DE FIGUEREDO.

All the above was contained in the letters alluded to, to which I refer.

I, João Baptista de Castro, Clerk in the Secretary's Office, copied out the preceding, November 28, 1802.

Inclosure 2.

Grant of Protection by Governor of Fort of Lorenzo Marques to the King of Maputa, October 8, 1823.

Declaration agreed to between the Most Illustrious the Governor of the Fort Lorenzo Marques and the King of Maputa, Macazana Maxillini. Done at Maputa, October 8, 1823.

THE Most Illustrious the Governor covenants to afford him all the protection in his power, because the King recognizes the Portuguese alone as lords and discoverers of all these lands, so that

the ancient relations continue in force ; and that no validity can attach to any negotiation or convention with any nation except with the Government of Portugal.

(Signed)

MIGUEL SUSSE DE CARDENAS, *Governor.*

MACAZANA, *King of Maputa.*

MAXIMIANO JOSÉ FERNANDES, *Ensign.*

CAMANA, *Brother to the King and Principal Secretary.*

As Interpreters,

MANOEL JOSÉ SISBOA.

ELLETERIO HENRIQUE.

And I, as charged by this Government of Lorenzo Marques with the office of Clerk, by reason of the indisposition of the functionary who holds it,

(Signed)

MENTE THOMAS DOS SANTOS.

That the preceding is a true copy, as well as all the signatures, I certify, in conformity with my trust and office.

Bay of Lorenzo Marques, October 28, 1823.

(Signed)

ANTONIO PEDRO TEIXEIRA, *Clerk ad interim.*

This is entered in Book 3 of this Government, at folio 11, by order of the Most Illustrious the Governor.

Bay of Lorenzo Marques, October 28, 1823.

(Signed)

ANTONIO PEDRO TEIXEIRA, *Clerk ad interim.*

Inclosure 3.

Notice of Cession of Lands of Temb  and Maputa to Crown of Great Britain, June 1, 1823.

BY Joseph Nourse, Knight of the eminent Military Order of the Bath, Chief (Commodore) of Division commanding in the name of His Britannic Majesty the ships employed in the service of the Cape of Good Hope and the seas adjacent, &c., &c., Mayet, King Capella, King of the lands situated between the Rivers English and Dundas on the one side, and the River Maputa on the other, which King is vulgarly denominated Temb , a name borne by his ancestors, having by the power, authority, and title transferred to him in consequence of the demise of his grandfather, the late King Capella, freely ceded the whole sovereignty of all the lands of Temb  and of Maputa to George the Fourth, King of Great Britain and Ireland, &c., &c., under certain conditions, which it is unnecessary to specify in this place, and William Fitzwilliam Owen, Captain of Her Britannic Majesty's frigate the "Leven," and Commander-in-Chief of the British Squadron employed in surveying the East Coast of Africa, having certified that he was applied to, or rather repeatedly solicited to accept the cession of the Kingdom of Temb  by desire of the King Capella, of which it was his design to inform the superior authorities but that circumstances compelled him to the resolution of accepting it till he should learn the pleasure of His Britannic Majesty, and that the cession was effected to him in due order, through the agency of King (Chief) Hengeley by order of the King, on the 8th of March, 1823, and Captain Owen, certifying, furthermore, that far from having urged this act or offered any inducement to the King of Temb  to resort to it, he had continually declined it when pressed to receive the Territories for His Britannic Majesty, until at length he agreed to it on the 8th of March, 1823. Therefore such accession having been made in due form and order, I, Joseph Nourse, Chief of Division (Commodore) and Commander-in-Chief of the British ships employed on the station of the Cape of Good Hope, &c., &c., do authorize all and every subject of Her Britannic Majesty to trade with the King, chiefs and people of the said territory of Temb , and I hereby give notice that any interruption given to the said subjects of Her Britannic Majesty peacefully and amicably trading with the King, chiefs and people of Temb , will be at the risk and peril of the parties offering the same, and, moreover, to prevent any unlawful interruption of Her Britannic Majesty's subjects employed in all regular commerce with the King, chiefs, and people of the Kingdom of Temb , I authorize Her Britannic Majesty's ships of war to take every opportunity to visit the port of Lagoa in order to protect, if it should be necessary, the interest of Her Britannic Majesty's subjects employed in amicable commerce with the King, chiefs, and people of Temb , and if they should perhaps find that any interruption had been offered to Her Britannic Majesty's subjects engaged in lawful commerce, I have directed them to produce the present document.

Given under my hand and seal on board Her Britannic Majesty's frigate, the "Andromache," in Simon's Bay, Cape of Good Hope, this day, the 1st June, 1823, and the fourth of His Britannic Majesty.

(Signed)

JOSEPH NOURSE.

To all to whom it shall appertain by the order of the Commodore, &c., and Mr. Trelawney, entered Book B, of this Government, folios 14 and 15, from the original presented by the Supercargo Maynard.

Bay of Lorenzo Marques, October 28, 1823.

(Signed)

ANTONIO PEDRO TEIXEIRA, *Clerk ad interim.*

Inclosure 4.

Homage done by the King of Temb  to the Factory of Lorenzo Marques, October 20, 1823.

ACT which causes him to be recognized as King of Temb  with the title of Capella or Macuta, on the 20th of October, 1823, in this town of Mascacha. Yesterday, after the said Macuta had gone with a great portion of his grandees to do the accustomed homage to the factory, in order that the factory might cause him to be acknowledged by the town of Temb , without which, in conformity to usage, and according to its duty, he could not be acknowledged, and the usual declaration having been made out according to custom, all the grandees who were collected together, after long oration, and by common assent, declared Macuta to be the person to whom the Government of Temb  belonged.

In consequence of which, having done the homage and paid the respect as customary, according to the usage of this land, that man was generally acknowledged by the whole town, and the wonted compliments were paid to him, he being immediately and duly recognized by the whole town of Temb  (and by the territory) as its King and Superior, with the title of Capella: binding himself, as was his duty, and according to ancient customs, to acknowledge himself subject to the factory, without which his authority would have had no value. And the interpreters of the factory, as well as of Temb , having read these things, and interpreted them with accuracy, and in the best form, not only to the King, but also to all the grandees, their dependents, and to the people, he was by all generally received according to duty and custom, and with every possible enthusiasm. For which cause all the persons who were present perfectly spontaneously fixed their names.

(Signed)

MIGUEL LUPE DE CARDENAS, *Governor.*

ANTONIO MODESTO DE SOUZA, *Captain.*

MAXIMINIANO JOSE FERNANDES, *Ensign.*

ANTONIO PEDRO TEIXEIRA, *Lieutenant.*

VICENTE THOMAS DE SANTOS, *Shipmaster.*

MANOEL JOSE LISBOA, *Interpreter.*

SALVADOR LEITE PEREIRA FURRIEL.

MACETA SECAMBLA CANHA MEBASCANE, *Registrar of Temb .*

MATIVATA XAMBARA, *Grandfather of the New King.*

MADOMANE (signed for MAXANA).

MADOMANE, *Brother to the King's Grandfather.*

INFANTE, *Ditto.*

MAXINIANA, *Brother of the Grandfather.*

ILCAINGO or MULATI, IMPAMBATE, *Son of Mulati, Brother of the former King.*

CHICAETA MOMBANETO, *Grandson of the former King.*

CHICALETA, or CHICATE MOOR, *Brother of the aforesaid Predecessor.*

CLUCHIGILI, *Grandson of the said Predecessor.*

MOLHEQUA, *Son of the said King.*

MAGONE, *Son of the aforesaid.*

MAPOSCA, *Grandson of the aforesaid.*

BAVANE, *Nephew of the Predecessor.*

BARALUME, *Ditto.*

MASSEQUE MAXEMBINE, *Son of the aforesaid.*

CHENGOA, *Nephew of the aforesaid.*

NOUBILI MAXEVENDA, *Nephew of the aforesaid.*

GOANE DIVINI, *Son of the Predecessor.*

MATAONE, *First Secretary of the present King.*

MOACHANHANA, *Second Secretary.*

I certify that the signatures above are those of the individuals who signed before me, which I declare upon my word of honour.

Bahia de Lorenzo Marques, October 20, 1823.

(Signed)

ANTONIO PEDRO TEIXEIRA, *Notary ad interim.*

Extracted from the Book of Register No. 1, folio 8, where the original itself is registered, by order of the most illustrious the Governor, to which I certify.

Bahia de Lorenzo Marques, October 28, 1823.

(Signed)

ANTONIO PEDRO TEIXEIRA, *Notary ad interim.*

Inclosure 5.

Act of Declaration by King Capella that he had not ceded his lands to Captain Owen, and that the Lands belonged to Portugal, October 20, 1823.

ACT of the Declaration made by the King Maceta Capella, and by all his principal persons and secretaries of Temb , which is as follows:—

In the year of the birth of our Lord Jesus Christ, 1823, 20th of October, in the town of Man-

chauxa, in Tembé, this affidavit was made out. The most illustrious Governor, desiring to establish the truth as far as possible relatively to the vague rumours, and also on account of the letter which this Government received from Captain Owen, of His Britannic Majesty's frigate "Leven," in order to inform those whom it may concern, invited all the English residents in this bay, by an official letter addressed to the supercargo of the two schooners (Mr. Mainart), to be present, publicly and clearly to witness the truth, by means of questions put to the King Maceta, entitled Capella, and to all the grandees, relations, and secretaries; wherefore they were all collected, and declared as follows. They were asked who they were, and to whom they belonged, and whom they acknowledged. The Capella replied, and all applauded as he spoke, what is set down. That we are Loudins, sons of the Capella, our ancestor. He was born of the Molungos (Portuguese), as well as the Maloto and Mumumba, who hold these forts, and that they were obliged to adopt some measures to obtain stores for these forts. They were asked, moreover, if they had signed any paper for any person, or for the said Owen, in which they made a donation of their lands to His Britannic Majesty. He replied that he had not signed any paper, and that he could not give the lands, inasmuch as they belonged to the Molungos (Portuguese). That it is true that he received from Captain Owen some articles of dress, but that these were repaid by oxen and ivory which he gave to him; and that if they imagined that on account of these presents he had given up the land, they were greatly mistaken, and that they could not do such a thing, because it was the property of Molungos. The said Maceta was again asked if he could deliver up the lands to the English? He replied, and certified to every one, that that was impossible, inasmuch as for many years they possessed a pillar of stone and a flag; and that since the Portuguese held their fortress they always considered themselves subject to the Portuguese Governor, so much so, that when he went on board any foreign ship, even on board the ship "Levern," he always sent intimation thereof to the most illustrious Governor. And this he finally affirmed of his own will, in which the King was joined by the nobility and people, and swore it by a most solemn oath, soliciting a Portuguese flag in their lands of Tembé, and also a detachment to guard it, because he knew in these lands no other than the Portuguese flag. They being asked for the pillar, replied that it was buried and preserved, but in a place of security, and that this day, as it was late, they did not show it, but that they would do so on any other occasion.

(Signed) MIGUEL LUPE DE CARDENAS, *Governor.*
 ANTONIO MODESTO DE SOUZA, *Captain and*
Commandant.
 MAXIMINIANO JOSE FERNANDES, *Ensign.*
 VICENTE THOMAS DOS SANTOS, *Captain and*
Ship-master of the passage-vessel.
 SALVADOR LIETE PEREIRA FURRIEL.
 THEODOSIO JOSE.
 JOSE MANUEL PANTOYA, *Corporal.*
 MUCIPETE BAXANY.
 JOAQUIM MANOEL.
 ANTONIO JOSE BANADAQUE.
 MANOEL JOSE SISBOA.
 ELEUTERIO HENRIQUES, *Interpreter.*

I recognize the signatures of the witnesses above mentioned; and I declare that the present act of the Declaration of the King Capella, nobility, and people of Tembé, having been offered to Mr. Mainart, in order that he might likewise sign it as a witness, he, being an Englishman, and having assisted during the whole proceeding, excused himself from so doing. All which I assert as truth.

Bahia de Loreço Marques, October 20, 1823.

(Signed) ANTONIO PEDRO TEIXEIRA, *Notary ad interim.*

Extracted from the Book of the Register No. 5, folios 10 and 11, where the original itself is registered, by order of the most illustrious the Governor, which I certify.

Bahia de Loreço Marques, October 28, 1823.

(Signed) ANTONIO PEDRO TEIXEIRA, *Notary ad interim.*

Inclosure 6.

Captain Owen to the Commandant of the Fort of Loreço Marques, announcing Cession of Tembé and its Dependencies to Great Britain, March 9, 1823.

"Leven," English River, March 9, 1823.

I HAVE the honour to inform you that the King and people of Tembé have begged through me the protection of His Majesty my Master, and have without solicitation freely ceded the sovereignty of the said Kingdom of Tembé and its dependencies to his said Majesty, which protection I have granted, and which concession I have accepted until His Majesty's pleasure be known, in token of which I have hoisted the British flag on the southern bank of the river.

I therefore trust that this flag and freedom of the people of Tembé will be respected by you and all Portuguese authorities agreeably to the terms of amity existing between our nations.

The Portuguese were used to hold a spot of land in Tembé, for which it has been their custom to pay an acknowledgment by annual presents.

Their title to that spot will be acknowledged so long as they continue to pay for the same

in the usual manner either to the native King of Temb  or to His Britannic Majesty's representative there.

I have, &c.
(Signed) W. F. W. OWEN.

Inclosure 7.

Treaty of Commerce between Makasane, King of Mapoota, and the subjects of His Majesty the King of Great Britain.

VESSELS entering the River Mapoota to trade with Mapoota shall first pay tribute to the King of the value in goods at invoice price of 5*l.* sterling, and to the amount paid in trade for one foot on twenty of those they may obtain by traffic in Mapoota, that is five per centum.

Boats shall pay to the amount of 10*s.* as a present, and to the amount of four per centum in duty after her cargo is obtained.

No dues or presents shall be exacted from British subjects for any other trade than that of ivory.

This engagement to be enforced for four years only, and the King is to show it to such of the English as may come to trade with him.

Given under our hand on the 3rd day of August, 1823, in the River of Mapoota.

(Signed) MAKASANE, *King of Mapoota.*
W. F. W. OWEN, *Captain.*

I, Makasane, King of Mapoota, do declare that I hold the dominion of all the lands between the River Mapoota (supposed formerly to be called the Belagane), and the sea, entirely free from any dependence whatever, or any earthly person or power; and I do hereby declare a perfect friendship for all the subjects of Great Britain on terms of reciprocal benefit to them and the Mapootans. On this ground, I, Makasane, do declare all my subjects shall from this time forth, be allowed unrestricted trade or commerce with the English or other subjects of His Britannic Majesty, reserving to myself however, the right to exact such a present, in every case, as it has been heretofore the custom to pay to me or my predecessors which, as well as a scale for other duties, shall be arranged in another document; and knowing that my power is not sufficient to protect me against the designs of a powerful nation, I beg for and promise to accept the protection of His Britannic Majesty, and do promise that I will not place myself in any similar degree of political relationship with any other European Power for ten years from the date hereof, on the following conditions, namely, I reserve to myself and the natives of Mapoota the right to a free and unrestricted commerce with all people and nations not at war with Great Britain.

If it shall at any time within the aforesaid term of ten years be the pleasure of His Britannic Majesty to establish a Colony of his subjects in the territory of Mapoota, I will freely give lands to the purpose, provided an annual acknowledgment of quit rent for the same of the smallest value be paid to me or my successors, being Kings of Mapoota.

On the establishment of such a Colony, of at least 1,000 souls, I will subscribe and conform to such plan of government as may be established on the following principles for the mutual benefit of the English and Mapootans:—

The people of both nations shall be subject to the same law in criminal matters. The Mapootans being by immemorial usage Polygamists, no attempts shall be made to regulate the intercourse of the sexes on any other principle than the Mosaic law or that of Civil Contract; but regulations and laws may be made to enforce the fulfilment of the terms of the said contract.

No woman shall be contracted to or united to any man but with her own consent, and that of her natural guardians, that is, of her mother and father, if living, if not, of the nearest relations to her father or of the king. No human creature shall ever be a slave in Mapoota, that is, no man, woman, or child shall be considered as the property of any other person, and it shall be the worst crime to steal or to buy, or to sell any such; and there shall only be one law for the government of every man in Mapoota.

There shall be no laws or regulations made for the government of the people of Mapoota without the consent of the King and Chiefs, who are the natural guardians and representatives of the people.

We, however, disclaim any desire or right to meddle with the regulations or government of such British subjects as may be established among us, unless it shall please His Britannic Majesty to incorporate us into one people, in which case the following principles, in addition to what has been aforesaid, are these only to which we accede by the deed; persons and property shall always be at the free disposal of their present possessors, who may dispose of or alienate them as they may think fit, without let or hindrance, unless such a power be restricted by any contract which the said present possessors may voluntarily make to limit their own powers to alienate or dispose of such persons or property. Wives are the property of their husbands under the terms of the contract by which they become wives. No woman shall be free to make any contract whatever without the consent of her natural guardians; no person shall by any act or contract whatever become the slave of another, that is, his property in such a sense as would put in the power of a master to inflict death, pains, or punishments on him according to the judgment and caprice of such master only; servitude is, however, permitted; first, for daily hire or wages to perform specific services; second, to perform certain tasks or works, when by agreement or contract the remuneration depends on the completion of such work; third, conditional personal servitude for any time to which fathers or guardians may engage children

for any time before they attain the age of seventeen years; men above that age may be engaged for any time not exceeding six years; no person whatever shall be obliged to make any contract or engagement but by their own free consent, but having made any contract, engagement, or agreement not being to the injury of any other person, their fulfilment of them may be enforced. No person on any pretence but by judgment made and given in public, founded on oral testimony publicly given, shall be punished in any way, or deprived of property of any kind. The rights of persons and property shall be the same for British settlers in Mapoota and for Mapootans. If these principles be established, I freely invite the subjects of His Britannic Majesty to come and live with us. In witness whereof I have signed and sealed this in the English manner this 23rd day of Augst, in the year 1823, of the Christian era.

Done in the presence of us in Mapoota.

(Signed)

MAKASANE.

MANDINGA, *Brother of the King.*

W. F. W. OWEN, *Captain.*

RD. OWEN SUCH, *Commandant.*

GEORGE PHILIPP, *Interpreter.*

ANSELMO JOSE DO NARCIMTO, *Interpreter.*

Copia fiel dos dois Tratados que o Regulo Makasane apresentou.

Maputa, em 8 de Outubro de 1823.

(Assignado)

VICENTE THOMAS DO SANTOS.

Escrivão na impossibilidade do interno. Recibio o signal de Vicente Thomas dos Santos, o qual exerceu o meu cargo na minha impossibilidade, a que me reporto per fé.

Bahia de Lourenço Marques, 28 de Outubro de 1823.

(Assignado)

ANTONIO PEDRO TEXEIRA, *Escrivão interino.*

Está conforme:

(Assignado)

JOSE BARILIA RADEMAKER.

Inclosure 8.

(D.)

Captain Owen to the Commandant of Fort Lorenzo Marques.

Sir,

"Leren," *Delagoa Bay, August 26, 1823.*

I HAVE the honour to inform you, that Makasane, King of Mapoota, has made a Treaty of Friendship and Commerce with me on account of my nation, and also has prayed the protection of His Majesty my Master, and the British flag, to denote that he considers himself under its protection, to all which I have acceded, until the pleasure of His Britannic Majesty's Government be known.

I have the honour, therefore, to request that, in your commercial pursuits in the territory of Mapoota (from which the Treaty excluded no friendly nation), you will consider Makasane as its King, and his subjects as under the protection of Great Britain.

And also I have the honour to acquaint you, that I feel it my duty to protect them from any act of aggression.

I have, &c.

(Signed) W. F. W. OWEN.

Inclosure 9.

(F.)

Instructions for the Governors of the Factory of Lorenzo Marques.

(A.) VESSELS bearing the flag of Great Britain, which may enter this bay or river, or visit any of the neighbouring shores or rivers, shall neither be boarded or visited by the officers of His Most Faithful Majesty, belonging to the factory of Lorenzo Marques. Nor shall such British vessels, their boats, or crews, be in anywise molested, or interfered with, but suffered to pass freely.

And should any British vessel desire to anchor near the fort of His Most Faithful Majesty, or to communicate, or trade therewith, she is to be dealt with in the same friendly way as if she were under Portuguese colours, and neither subjected to violence nor indignity.

(B.) No British vessel within the limits of this bay, shall be confiscated without a legal trial before a responsible Court, duly and legally constituted by Sovereign Authority.

(C.) Neither the British nor Portuguese flag shall be hoisted in Tembé until the Ministers of their Majesties shall have decided the questions relative to that country, which it is believed are now before them.

(D.) None of the natives of Tembé shall be subjected to suffer either in life, liberty, or property, for their attachment either to British or Portuguese, and shall be left free to trade with whomsoever they may think proper.

(E.) The King of Mapoota is engaged in a Treaty of Commerce with the subjects of His Britannic Majesty, made two years ago with me, which commerce this factory is not to interrupt without express orders received from Governor and Captain-General of Mozambique.

Given under my hand, on board His Majesty's ship "Leven," in English River, Delagoa Bay, this 4th September, 1825.

(Signed) W. F. W. OWEN, *Captain*.

I promise, on my word of honour, to adhere, and strictly observe, the terms of the Articles lettered A, B, C, D, and E, until particular instructions thereon shall have been received from the Governor and Captain-General of Mozambique, and to recommend the same line of conduct to my successor, who is daily expected to arrive here.

Given under my hand, at the factory of His Most Faithful Majesty, in the Bay of Lorenzo Marques, this 4th day of September, 1825.

(Signed) XAVIER SCHMID VON BELLIKEN,
Governador e Capitão Mor.

Copia conforme o original:

(Signed) SCHMID, *Governador*.

Está conforme:

(Signed) JOSE BARILID RADEMAKER.

Inclosure 10.

Article II of Convention of 1817.

THE territories in which the Traffic in Slaves continues to be permitted under the Treaty of the 2nd of January, 1815, to the subjects of His Most Faithful Majesty, are the following:—

"1. The territories possessed by the Crown of Portugal upon the Coast of Africa to the South of the Equator, that is to say, upon the eastern coast of Africa, the territory lying between Cape Delgado and the Bay of Lorenzo Marques; and, upon the western coast, all that which is situated from 8° to 18° of south latitude.

"2. Those territories on the coast of Africa to the south of the Equator, over which His Most Faithful Majesty has declared that he retains his rights, namely—

"3. The territories of Molembo and Cabinda, upon the western coast of Africa, from 5° 20' to 8° south latitude."

APPENDIX VI.

Lord Dudley to the Marquis de Palmella.

Foreign Office, December 5, 1827.

THE Undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has had the honour to receive the note which his Excellency the Marquis de Palmella, His Most Faithful Majesty's Ambassador at this Court, addressed to him on the 23rd of May, on the subject of the detention and subsequent liberation of the British vessel "Eleanor," and the alleged claims of the Portuguese nation to the territory of Mapoota, on the eastern coast of Africa.

The Undersigned observes that, in the commencement of that communication, the Marquis de Palmella takes upon himself to conclude that, whichever way the question of territory may be decided, Captain Owen must be deemed to have been equally reprehensible in having interfered with the person commanding at the factory of Lorenzo Marques to obtain the liberation of the British vessel "Eleanor," and upon the ground of this assumed conclusion the Marquis de Palmella demands reparation on account of the conduct of Captain Owen, and requires the restitution of the vessel, in order that she may be tried by what the Marquis has designated as the "competent" Portuguese Courts of Justice, to which it was stated that she was about to be submitted, and where Captain Owen ought to have left her.

The Marquis de Palmella will permit the Undersigned to remark that, in the sweeping conclusion which his Excellency has drawn, he appears to have forgotten that the first forcible detention of the English vessel "Eleanor" was the act of the person commanding the factory at Lorenzo Marques; that the seizure, made in the manner and under the circumstances which accompanied that act, was entirely unjustifiable; and that judgment was about to be pronounced by a Court which was in no wise competent to determine the question of territory as between the two nations, on which, as is justly observed by the Marquis de Palmella, the whole question mainly depends; and, further that judgment had in some measure been carried into execution before a trial had taken place.

The step of Captain Owen, in inducing the return of that vessel to this country, laying the whole matter before His Majesty's Government, so that the point might be discussed between the two Governments, appears, therefore, to the Undersigned to have been merely the bringing back the point to that course from which it never ought to have diverged.

If, in this retrograding step to the right road, there may have been any appearance of harshness in the language of Captain Owen, sufficient cause will be found in the original unjustifiable step of the commander of the factory of Lorenzo Marques; and the British Government will not do the Portuguese Government the injustice of supposing that by continued allusions to a supposed peremptoriness of language on the part of the British officer, the Portuguese Government will attempt to cover over the heavy culpability which hangs on the previous proceedings of the commander at Lorenzo Marques.

The next point discussed by the Marquis de Palmella is the question to whom the territory at Mapoota appertains.

In regard to the question whether Portugal has any right or control over that territory, the Undersigned has perused with much attention the communication which the Marquis de Palmella did him the honour to make to him upon this subject, and the Undersigned is compelled to confess that he cannot perceive that the Marquis de Palmella has brought forward the slightest evidence whatever in support of the claim which he has asserted, that Portugal possesses an unalienable power over the territory of the Chiefs of Mapoota.

The Marquis observes that it is well known that the Portuguese were the first discoverers of the coast, and upon this general observation he chiefly rests; to that observation he returns; and with that observation must end the whole of the claim on the part of Portugal to the right and exclusive sovereignty over the territory of Mapoota. The Marquis de Palmella must be aware that the Portuguese neither have now, nor ever had, any settlement at Mapoota, or at any spot so low down the eastern coast.

The Marquis quotes that Article of the Treaty of 1817, whereby Slave Trade is tolerated within the territories possessed by Portugal between the Cape Delgado and the Bay of Lorenzo Marques.

This Article, allowing for the utmost latitude of expression, might include every foot of territory between the Cape Delgado and the Bay of Lorenzo Marques; but it cannot be held to mean the territory of those places inclusive.

The Marquis, however, is aware, for he has, with his accustomed frankness, inclosed copies of Treaties between the Chiefs of the territories in question, that those Chiefs, who are independent, have recently put themselves under the protection of His Britannic Majesty.

The Marquis de Palmella incloses antecedent Treaties of Alliance between native Chiefs of those coasts and the Portuguese nation. But in canvassing the Treaties which Captain Owen recently concluded with the Sovereign of these territories, his Excellency characterizes the parties contracting with Great Britain as half savages, and endeavours upon that point to invalidate the Treaties with this country.

The Marquis does not, however, question their independence; and if they be independent, the fact of the Portuguese having spied them, as they first sailed along the coast, would not put those native Chiefs and their nations so entirely under the control of the Portuguese nation as for ever afterwards to subject them to such laws as Portugal may choose to declare that she has imposed upon them. And, with every deference to the opinion of the Marquis de Palmella, the fact of these Chiefs being only half civilized will not alone, as the Marquis argues, invalidate the solemn and regular compact which they have entered into as independent Chiefs, pledging themselves in favour of the British nation.

From the note addressed to the Undersigned by the Marquis de Palmella, the state of the affair appears clearly to be what has always been represented to the British Government, namely, that the Portuguese Government cannot establish, either by conquest, settlement, or compact, any claim which invalidates that right to trade at Mapoota, which is secured to this country by the Treaty of Captain Owen.

The Undersigned has only therefore to express his regret and surprise that the Marquis should have demanded reparation from the Government of Great Britain, in a case where the Undersigned is confident that, upon consideration, the Marquis himself will perceive that reparation is due rather to this country from that of Portugal.

His Majesty is reluctant, under the present circumstances, to press upon the Infanta Regent any acknowledgment in the least degree ungrateful to her; and while the Undersigned submits, for the favourable consideration of the Portuguese Government, the accompanying application put forward by the owners of the "Eleanor" for compensation for the losses sustained by her detention, the Undersigned is expressly commanded to refrain, in the meantime, from going further than to urge that orders may be issued to the Governor of Lorenzo Marques to desist in future from unfounded claims or wanton aggressions, similar to those which have in this case been practised. The Undersigned has confidence that the Government of the Infanta Regent will not demur or delay to comply with this just and friendly requisition on the part of her ally.

But it is only in confidence that he shall receive an assurance to that effect from the Government of the Infanta, that His Majesty forbears, at this moment, from pressing for a severe punishment upon the Portuguese officer who presumed to make seizure of a British vessel, trading in seas and rivers where she had a more defined right to trade than even the Portuguese officer himself.

The Undersigned, &c.

(Signed)

DUDLEY.

APPENDIX VII.

The Marquis de Palmella to Lord Dudley.

South Audley Street, le 22 Mai, 1828.

LE Soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Très Fidèle, aurait depuis longtemps accusé la réception de la note de son Excellence Lord Dudley du 5 Décembre dernier, s'il n'avait craint de détourner l'attention de son Excellence d'autres questions et affaires relatives au Portugal d'une importance majeure, et qui demandaient avec urgence à être traitées de préférence à tout.

Cependant le Soussigné ne saurait laisser passer plus longtemps sans accuser la réception de la note ci-dessus mentionnée, d'autant plus qu'il se voit obligé à combattre les raisonnements qu'elle contient et à protester, comme il le fait officiellement, contre les conclusions que son Excellence en tire.

La note dont il s'agit a été adressée par Lord Dudley en réponse à celle que le Marquis de Palmella avait eu l'honneur d'écrire à son Excellence en date du 23 Mai, 1826, pour se plaindre de la conduite suivie par le Capitaine Owen, de la marine Britannique, pendant sa croisière sur les côtes des Colonies Portugaises de l'Afrique Orientale.

Les plaintes que le Gouvernement Portugais s'est vu forcé d'adresser à cette occasion au Gouvernement de Sa Majesté Britannique se réduisent, en résumé, à la violence exercée par le Capitaine Owen, lors de la saisie à main armée du bâtiment marchand "Eleanor," qui se trouvait détenu sous le canon d'un fort Portugais dans la Baie de Lorenzo Marques, et surtout contre la prise de possession d'une partie du territoire attenant à la susdite Baie de Lorenzo Marques, effectuée par le Capitaine Owen, malgré les protestations des autorités Portugaises, et en violation des droits que la Couronne de Portugal a réclamés et maintenus dès les premiers temps de la découverte de ces parages, sans que jamais il lui ait été contesté.

En répondant aux plaintes qui lui furent adressées par le Soussigné, son Excellence Lord Dudley veut justifier la conduite du Capitaine Owen quant au premier point (la reprise du bâtiment "Eleanor"), sur ce que la saisie de ce bâtiment, effectuée par le Commandant Portugais du fort de Lorenzo Marques, avait été faite de manière et accompagnée de circonstances qui la rendaient tout-à-fait illégale, et que la sentence ou le jugement qui allait être prononcé sur cette affaire aurait émané d'un tribunal tout-à-fait incompetent pour décider la question de la propriété du territoire de laquelle dépendait la légalité de la prise.

Son Excellence permettra au Soussigné de répliquer que quelle que puisse avoir été l'erreur originellement commise par les autorités Portugaises (en supposant qu'il y eut erreur—ce que le Soussigné n'a pas les moyens de décider ni l'autorisation d'accorder), il n'est pas moins vrai que la violence exercée par le Capitaine Owen, lors de la reprise de ce bâtiment, est coupable comme contraire aux droits des nations et à la bonne amitié qui subsiste entre les Couronnes de Portugal et de la Grande Bretagne, et doit être même regardée comme un acte hostile commis par cet officier contre les intentions indubitables de son Gouvernement. Il est évident que le Capitaine Owen, s'il jugeait les droits d'un sujet de Sa Majesté Britannique lésés, pouvait et devait en réclamer la réparation, en réclamant et protestant en faveur de ses droits. Mais il est également clair que pour réparer la violation qui, dans sa manière de voir, avait été commise, il ne devait jamais avoir recours à la force et à la violence dans un port appartenant à Sa Majesté Très Fidèle. En agissant ainsi le Capitaine Owen a substitué son propre jugement à celui qu'un tribunal, qu'il réputait incompetent, allait prononcer, tandis que la seule marche légale qu'il y avait à suivre dans le cas où les représentations qu'il aurait faites seraient demeurées sans effet, était de porter l'affaire à la connaissance de Sa Majesté Britannique, qui certes aurait réclaté et obtenu promptement de Sa Majesté Très Fidèle les réparations et les indemnités auxquelles elle aurait eu droit.

Le Soussigné prie son Excellence de ne pas perdre de vue que le Capitaine Owen ne s'est pas borné, comme son Excellence paraît l'indiquer dans sa note, à tenir un langage un peu rude motivé par les reproches qu'il croyait avoir à faire aux autorités Portugaises, mais qu'il a positivement commis un acte hostile en tirant le canon contre la forteresse de Lorenzo Marques, où un soldat a été tué, et en menaçant de détruire la dite forteresse si le bâtiment, qu'on y retenait, ne lui était pas remis. Si ce fait est positif, comme le Soussigné n'en doute pas, vu les rapports officiels qu'il a sous les yeux, il laisse à son Excellence à juger si le Gouvernement Portugais peut avec honneur ne pas porter plainte contre la conduite d'un officier qui a commis un semblable attentat. La question n'est donc pas de savoir si la prise du bâtiment "Eleanor" était légale ou non, ou si le Tribunal qui allait la juger était compétent, mais si le Capitaine Owen pouvait en aucun cas aller jusqu'à employer la force pour reprendre ce bâtiment dans un port Portugais. M. le Comte de Dudley est bien loin sans doute de sanctionner une semblable doctrine, d'après laquelle la force suffirait pour qu'un bâtiment de guerre quelconque exerçât son autorité dans les ports des autres nations.

En se livrant à cette longue et pénible analyse, le Soussigné remplit un devoir dont il croit ne pouvoir se dispenser, son principal but est de ne pas donner lieu, en gardant le silence, à inférer qu'il admet les arguments sur lesquels son Excellence fonde la défense du Capitaine Owen.

Du reste le temps qui s'est écoulé, et les événements survenus depuis le commencement de cette affaire, dispensent le Soussigné d'insister sur les réparations que d'ailleurs son Gouvernement serait autorisé à espérer de la loyauté et de la justice du Gouvernement Britannique.

Le second point, et le plus important sans doute, dont il s'agit dans la note à laquelle le Soussigné a l'honneur de répondre, est celui du droit de la Couronne de Portugal sur les territoires dont le Capitaine Owen a jugé à propos de prendre une espèce de possession au nom de Sa Majesté Britannique. M. le Comte de Dudley paraît croire que le Soussigné n'allègue d'autre fondement pour prouver les droits de la Couronne de Portugal que celui de ce que les Portugais ont été les premiers à découvrir ces territoires. Cette raison suffit sans doute pour démontrer qu'aucune autre nation n'en avait pris possession avant eux. Mais elle ne suffirait pas pour établir leur droit si elle n'avait été suivie d'une possession maintenue sans dispute pendant plusieurs siècles et fortifiée par la reconnaissance des peuplades qui habitent ce pays, formellement consignées dans des Conventions et des documents aussi valides sans doute que la Convention que le Capitaine Owen a induit le Chef de Mapoota à conclure avec lui, et qui ont sur cette dernière l'avantage incontestable de la priorité de date.

Si les Portugais ne possèdent pas actuellement des factoreries dans le territoire même de Mapoota, il n'en est pas moins incontestable que les autorités établies au fort de Lorenzo Marques étendent la sphère de leur Gouvernement sur tous les territoires baignés par cette baie, et exercent une suzeraineté reconnue par tous ses habitants moyennant des Traités qui leur imposent une espèce de prestation d'hommage.

Ceci est si vrai que même après le départ du Capitaine Owen, le Chef, ou comme on le nomme le Roi de Mapoota, a signé le 8 Octobre, 1823, une protestation déclarant qu'il ne reconnaissait que les Portugais pour seigneurs de ces terres, et qu'il n'avait entendu ni pu en faire donation à Sa Majesté Britannique, puisqu'elles appartenaient au Roi de Portugal.

Le Soussigné a en son pouvoir non seulement la dite protestation, mais aussi les copies des documents antérieurs, et il est persuadé que, quelque valeur qu'on veuille attacher à de semblables actes, ils suffisent en tout cas pour invalider celui que le Capitaine Owen a signé et par lequel il prend sous la protection de Sa Majesté Britannique les territoires que la Couronne de Portugal a jusqu'à présent possédés.

Les Traités dont il s'agit ne sont pas (comme M. le Comte de Dudley paraît indiquer dans une partie de sa note, dans laquelle il maintient que ces nations, quoique à demi-sauvages, sont néanmoins indépendantes), ces Traités ne sont pas de la nature de ceux que des Gouvernements libres contractent entr'eux pour des objets de commerce, et qui laissent la liberté d'en conclure d'autres semblables avec d'autres nations; ce sont au contraire de véritables Traités de vassalage d'une part, et de protection de l'autre, de manière que l'une des deux renonce évidemment au droit d'aller chercher une autre protection. Son Excellence Lord Dudley ne saurait nier que le Traité que le Capitaine Owen a conclu dernièrement est de cette nature, que le territoire de Mapoota y est pris sous la protection de Sa Majesté Britannique, et qu'en admettant, comme il est de fait, que des stipulations semblables à celles-là existaient depuis longtemps entre les Chefs de ce territoire et le Gouvernement Portugais, il n'est pas possible de supposer que le Gouvernement Britannique veuille empiéter sur les droits de priorité d'une Puissance son intime alliée.

Ainsi il devient inutile d'examiner si ces peuplades sont ou non assez avancées en civilisation pour comprendre la valeur de semblables actes; car si on les suppose trop ignorants pour pouvoir disposer d'elles-mêmes, alors le Traité que le Capitaine Owen a conclu serait aussi nul et insuffisant que les Traités antérieurs, et le Portugal aurait toujours à alléguer la possession non contestée de ce territoire et les actes de souveraineté exercés au nom de la Couronne du Portugal par les Gouverneurs des forteresses qu'elle possède sur cette côte; et dans le cas où on voudrait regarder les Chefs de ses peuplades comme compétents pour prendre des engagements solennels, alors on ne peut nier que des Traités antérieurs et la protestation postérieure à celui du Capitaine Owen n'établissent d'une manière triomphante la réclamation de la Couronne de Portugal.

Le Marquis de Palmella dans sa première note a eu l'honneur de porter à la connaissance de M. le Comte de Dudley un Article de la Convention signée entre le Portugal et la Grande Bretagne le 28 Juillet, 1817, dans lequel il est expressément reconnu que les territoires appartenants à la Couronne de Portugal sur la Côte Orientale d'Afrique s'étendent depuis le Cap Delgado jusqu'à la Baie de Lorenzo Marques. Le Soussigné espérait que ce témoignage patent d'un droit reconnu par un Traité formel suffirait pour décider la question, et il avoue qu'il ne pouvait s'attendre à l'interprétation que M. le Comte de Dudley veut y donner en alléguant qu'on doit entendre que ces possessions s'étendent entre le Cap et la Baie, mais ne les comprennent pas inclusivement.

Le Soussigné prendra la liberté d'observer que quant au Cap Delgado il ne peut y avoir de question, puisque c'est un point déterminé où commencent les possessions Portugaises; quant à la Baie de Lorenzo Marques, où il dit que ces possessions se terminent au sud, il faut supposer que l'on sous-entend le mot "exclusivement" ou "inclusivement," car sans cela on aurait dit d'une manière expresse quel est le point compris dans la Baie de Lorenzo Marques, où les possessions Portugaises se terminaient. Or, on n'a pu sous-entendre le mot "exclusivement," puisqu'il est indubitable que la Couronne de Portugal possède des forts et des établissements dans l'enceinte de cette baie; donc il s'en suit par une conséquence innégable qu'il faut supposer le mot "inclusivement," et le Soussigné se persuade, à dire vrai, qu'aucun juge impartial auquel on donnerait à interpréter l'Article dont il s'agit n'hésiterait pas à décider qu'il comprenait la Baie de Lorenzo Marques toute entière, et que puisqu'on n'a pas spécifié d'autres limites elle doit être regardée comme comprise dans les territoires reconnus pour appartenir à la Couronne de Portugal.

Le Soussigné croit inutile de s'appesanter davantage sur cette discussion; il espère que son Excellence Lord Dudley voudra bien excuser la longueur excessive de cette note, et prendre en considération le devoir que dans les circonstances actuelles est plus que jamais imposé au Soussigné de maintenir et de défendre les droits de Sa Majesté Très Fidèle, et de ne pas donner lieu, même par son silence, à ce qu'on puisse les croire lésés.

L'objet dont il s'agit, quoiqu'il ne paraisse pas être dans le moment actuel d'une importance immédiate, peut cependant le devenir, et mérite en tout cas d'être traité comme une question grave, et dans laquelle il s'agit d'une part de soutenir des droits qu'on croit incontestables, et de l'autre d'agir, comme les deux Gouvernements ne peuvent que le vouloir, d'une manière conforme à la justice et aux relations amicales qui subsistent heureusement entr'elles.

Le Soussigné ajoutera seulement qu'il se flatte que M. le Comte de Dudley ne saurait jamais douter du respect et des égards qui sont dus à son opinion, et que son Excellence ne verra dans celles que le Soussigné a énoncées que l'accomplissement d'un devoir qui n'affecte en rien ses sentiments.

Il a l'honneur, &c.

(Signé) LE MARQUIS DE PALMELLA.

APPENDIX VIII.

I, MAYOTT, King Kapell, King of all the lands situated between English and Dundas Rivers on one side, and the River Mapoota on the other, commonly called Tembé, after one of my forefathers, who first settled this land, do, by the power, authority, and title which have devolved on me by the much-lamented death of my grandfather, the late King Kapell, freely cede the full sovereignty of all the said lands of Tembé and Mapooto, to George IV, King of Great Britain and Ireland, &c., and his successors, on the conditions, and for the reasons hereafter specified.

1. That the King of Great Britain do permit a free trade to this land by all his subjects of British India, of the Cape of Good Hope, of Mauritius, and of his European dominions, under such regulations as he may see proper.

2. That the King of Great Britain do establish such a force in the lands of Temb  as may protect my people not only from the incursions of the more warlike nations of the interior, but also from the insults and continued oppressions which have hitherto been practised on us by European nations, and more particularly by the Portuguese, who are not only unable to afford us any protection themselves, but by a most despotic, enthraling, and unreasonable interference, prevent, when they can, our commerce with the people of any other nation, even instigating us to murder those of our subjects who may have had any such commerce; and to all this in the late war with the outcast Olontontes, when our whole country was devastated, and no family safe, the Portuguese factory on the north bank of English River were not only at peace with our invaders, but on such amicable terms as to buy their plunder of cattle and slaves, and to carry on other peaceable traffic with them, whilst my people were reduced to a famine by the effects of the said war.

3. That the person who shall represent the King of Great Britain in these lands, shall be entrusted with unlimited power, to execute such laws and regulations as may be made for these lands of Temb  and Mapoota.

4. That no law or regulation, neither for white inhabitants or black (except only the military), shall be made, unless assented to after discussion by the Chiefs assembled for that purpose in the first instance; and, in the second, by the Head Council, consisting of the British Governor, King Kapell, or his successor, two British, and two Temb  Counsellors.

5. That the number of Chiefs shall not exceed one for every square league in the country; and one-half of the number may be British settlers or military officers not under the rank of lieutenants in the army; the Chiefs shall be named by the Governor and by King Kapell, jointly; those of Temb  shall be chosen by King Kapell, those from the British by the Governor.

6. King Kapell recommends that no Governor be allowed to retain his situation more than five years; and that the King of Great Britain would be graciously pleased to cause their public conduct to undergo a public review and trial in England at the end of their time; and that no charge against them shall be received unless delivered into his successor's hands, within one year after his supercession.

7. That no law or regulation shall ever be proposed, or pass, but on the following principles, viz., the freedom and security of persons and property, and a perfect good faith, that is, the person and property of every man shall be inviolable and sacred, so long as he keeps all the contracts, engagements, or Conventions he may have voluntarily entered into, either with the State or with individuals.

8. Whenever any lands may be necessary for public buildings or works, it must be ceded by law after the second year of the formation of a British establishment; before that time I, King Kapell, will give such lands as the Governor shall require of me; but should any individual suffer loss by a public appropriation of his land, he must be satisfied for the same, according to the judgment of arbiters.

8. The Chiefs shall be called together in Council by the joint authority of the Governor and King Kapell four times in every year, for fourteen days each time, and none to absent themselves without the permission of the said authority.

10. Every man shall have dominion in his own family, that is, over his own wives, children, and servants, within the bounds prescribed by law. The laws of the land shall, as soon as possible, be reduced to the most simple order, and be taught by rote to every male child, who, as soon as he shall be able to repeat them and understand them, after he is seventeen years of age, shall enter into a solemn agreement to keep the same; and shall be from that time free from his father's government, being responsible only to the State, except he still inhabit his father's house; in that case he must fall under his paternal government.

11. In all civil and criminal cases, trial shall be before judges named, by joint authority of the Governor and King Kapell, from the Chiefs; and in civil cases by three arbiters, in criminal by seven.

12. The revenues, and their administration in every branch, come under the head of laws and regulations; and the power of making war or peace shall be with the Supreme Council exclusively; and the male population shall be formed into bodies of militia, and exercised at least two hours in every week, under such regulations as the Governor and King Kapell may think proper.

13. A man may, by will, give over his property to whomsoever he may think proper, provided he be sane; but no property whatever shall be devised in tail, and in case of dying intestate, all the children by all his wives shall share the inheritance equally.

And I, King Kapell, do declare that I am induced to make this cession by the advice of my Chiefs, because I find my State and people too weak to defend themselves against the aggressions of either Africans or Europeans, and because I find my people ignorant and uncultivated, and inhabiting a country capable of everything by well directed industry, to which they are well-disposed; and, lastly, I have chosen the King of Great Britain as my protector, because my people are so strongly attached to him that very many of them speak the English language, and because I believe his power to be the only one established on principles of universal justice, and the only one capable of affording me and my people the protection we seek.

In witness whereof, I have put my hand and seal, in the British manner, this eight day of March, one thousand eight hundred and twenty-three.

(Signed) KAPELL (L.S.)

Witness:
(Signed) SLENGELLY.
CAPENFENNICK.
SHAMAGUVA.

We, the Undersigned, do certify that we walked about sixteen miles to the residence of

King Kapell of Temb , unattended by any but his own people, and that he did, without solicitation, and by his own free will and desire, make a cession of the sovereignty of his kingdom and its dependencies, in the public presence of his Chiefs and people, as by the accompanying deed, and that he then gave his hand to sign the same, as did also, as witnesses, Slengelly, the Chief of the district forming the southern bank of English, and Shamaguva, the interpreter, and Capenfennick.

In witness whereof, we have given this under our hands this nineteenth day of March, one thousand eight hundred and twenty-three.

(Signed)

WM. MUDGE, *Senior Lieutenant of H.M.S. "Leven."*
JOHN FORBES, *Botanist.*

I, the Undersigned, do hereby certify that I had been repeatedly solicited to accept the cession of the Kingdom of Temb  by the desire of King Kapell, of which it was only my intention to acquaint superior authorities; but circumstances rendered it necessary that I should at once decide to accept it until the pleasure of His Majesty should be known, when this request was brought to me in form by Prince Slengelly, in the King's name, which he did on the eight of March. I do also certify, that, so far from having moved this act myself, or from having offered any inducement to the King of Temb  to do it, I have constantly evaded it, when urged to take the country for King George and the English until this time, nineteenth of March, one thousand eight hundred and twenty-three.

(Signed)

W. F. W. OWEN, *Captain of H.M.S. "Leven."*

APPENDIX IX.

Protest of Governor of Loren  Marques.

*Government of the District of Loren  Marques,
November 5, 1861.*

Most Illustrious and Excellent Sir,

I HAVE the honour to acknowledge the receipt, from one of your Excellency's officers, of a letter dated 5th of this month, in which you inform me that you have the same day taken possession of the Island of Inyack, and of the neighbouring roads, in the name of Her Majesty the Queen of England, and that from this date forward they form part of the Colony of Natal.

On this very important matter I can only inform your Excellency that, being an authorized subaltern of the province of Mozambique, I could never have looked forward to a taking possession of this sort, which is in truth to me very extraordinary, as the Governor-General of this province, under whose orders I am, has not seen it right to give me any instructions on this subject.

Not having such instructions I am now compelled to protest against the violence done to the Government of His Most Faithful Majesty, to which I shall at the earliest opportunity make known the case.

I avail, &c.

(Signed)

PUSSE LOWE D'ANDRADA, *Governor.*

To the Most Illustrious and Excellent Mr. Bickford,

Captain of Her Britannic Majesty's ship "Narcissus."

APPENDIX X.

Protest of the Governor of Mozambique.

Sir,

Palace of Government of the Province of Mozambique, April 7, 1862.

BY letter of the 1st January last, the Governor of the district of Loren  Marques informs me that, on the 5th November last, he received information, by a boat from Her Britannic Majesty's steamer "Narcissus," anchored in the island of Inyack, that the commander of the said steamer had taken possession, in the name of Her Majesty the Queen of England, of the island of Inyack and the neighbouring islands, and that from thenceforward those islands formed part of the Colony of Port Natal.

The Governor of the district, though he did not on that occasion send me either the original or the copy of the letter sent to him by the commander of the "Narcissus," forwarded to me a copy of the letter which he addressed to that commander, protesting against an act which is a violation of the rights of the Crown of His Most Faithful Majesty, as your Excellency will see from the copy which I have the honour to inclose.

As Governor-General of the province of Mozambique, and representative of His Most Faithful Majesty in this part of his dominions, it is my duty to repeat, as I do repeat, the protest of the Governor of the district of Loren  Marques, of the 5th November last, and to protest, as I do protest, before your Excellency as Commandant of the naval station of Her Britannic Majesty on the coasts of Eastern and Western Africa, and before all whom it may concern, against the possession which the commander of the steamer "Narcissus" informs us he has taken of the Island of Inyack and of the other islands in its neighbourhood.

This my solemn protest against such act is grounded on the duty incumbent on me to contend and protect the rights belonging to the Crown of Portugal over the whole Bay of Loren  Marques, rights which are positively recognized in the IInd Article of the Convention between Portugal and Great Britain, signed in London on the 18th July, 1817, inasmuch as it gives for southern boundary of the

Portuguese possessions on the eastern coast the Bay of Lorenzo Marques, within which are the Island of Inyack and its neighbouring islands.

Under these circumstances I have the honor to declare to your Excellency that such act is considered by me as a usurpation of the territory of His Most Faithful Majesty, and that I do not in any manner recognize that territory as appertaining to the Colony of Port Natal, being persuaded that this act of violence and spoliation will not be sanctioned by the Government of a friendly nation, allied to the Crown of Portugal, and which has more than once been obliged to guarantee to Portugal the possession of her colonies, in the territory of which the Bay of Lorenzo Marques is, and always has been, included.

I hope your Excellency will be pleased to acknowledge the receipt of the present letter, which I send through Captain Gardner, Commander of Her Britannic Majesty's steamer "Orestes," whom I required to read it.

God preserve, &c.

(Signed) JOAO GAVARY DE ALMEIDA, *Governor-General*.

To his Excellency the Admiral Commander-in-chief of

Her Britannic Majesty's Squadron in East and West Africa.

APPENDIX XI.

Count Lavradio to Lord Russell.

My Lord,

Portuguese Legation, London, February 22, 1862.

IT appears from a notice published officially on the 25th of November, 1871, by order of the Governor of the Cape of Good Hope, that on the 5th of November last the British flag was hoisted on Inyack Island (Unhaca), and on Elephant Island, both situated in Delagoa Bay (Bahia de Lorenzo Marques), the said islands being declared to be from that day possessions of Her Britannic Majesty and the dependencies of the Colony of Natal.

But as it is certain that the two aforesaid islands, as well as the whole Bay of Lorenzo Marques, or Delagoa Bay, have from time immemorial belonged to the dominion of the Crown of Portugal, which was explicitly and solemnly recognized by the Government of His Britannic Majesty in the Convention of the 20th July, 1817, an international instrument complementary to the Treaty of the 22nd January, 1815, concluded between the Sovereigns of Portugal and Great Britain; and as it is therefore evident that the taking possession of these islands by the Governor of the Cape of Good Hope, without the previous and solemn acquiescence of His Most Faithful Majesty and the approval of the representatives of the Portuguese nation assembled in Cortes, must be considered as a violation of Portuguese territory, the Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Most Faithful Majesty, has received very positive orders from his Government to make known the above-mentioned facts to his Excellency the Earl Russell, and to claim from the Government of Her Britannic Majesty due reparation for the acts done, or ordered to be done, by the aforesaid Governor of the Cape, in manifest violation of the law of nations and of the Treaties in force between the Crowns of Portugal and Great Britain.

The Undersigned cannot for one moment doubt that Her Britannic Majesty's Government will hasten to direct that a strict investigation be instituted upon the alleged acts, and to make any possible reparation for the inexplicable proceeding of the Governor of the Cape of Good Hope, so manifestly opposed to the principles of justice and of right so many times proclaimed by Her Britannic Majesty's Government.

The Undersigned, &c.

(Signed) LAVRADIO.

APPENDIX XII.

Sir A. C. Magenis to the Marquis de Loulé.

M. le Ministre,

Lisbon, March 18, 1862.

COUNT LAVRADIO, His Most Faithful Majesty's Minister at the Court of St. James's, addressed, on the 22nd ultimo, a note to Earl Russell, Her Majesty's Principal Secretary of State for Foreign Affairs, conveying a protest from the Portuguese Government against the occupation of Inyack Island by the naval forces of Her Majesty, as being a violation of Portuguese territory, and putting forward a claim for reparation: and I have been instructed by his Lordship to inform your Excellency, in reply to that note, that after a renewed and careful consideration of this subject, Her Majesty's Government are of opinion that the Portuguese Government have no right to any territory to the south of Lorenzo Marques, and that the southern portion of Delagoa Bay (in which the island of Inyack and the adjoining small island marked in the chart as Elephant Island, both of which were formally taken possession of by Captain Bickford, of Her Majesty's ship "Narcissus," on the 5th of November last, and from that time forward attached to the British Colony of Natal, was fully and lawfully added to the British Crown, and that Her Majesty's Government must consequently adhere to the view taken by the Earl of Dudley in his note of the 5th December, 1827, to the Marquis de Palmella, both as to the limits of Portuguese territory and as to British rights.

In the Treaty, concluded in 1817, between Great Britain and Portugal, the territory possessed by Portugal on the south-east coast of Africa, is thus defined in the IInd Article:—"The territories possessed by the Crown of Portugal to the south of the Equator, that is to say, on the eastern coast

of Africa, the territories lying between Cape Delgado and the Bay of Lorenzo Marques." And the only question of dispute which can arise as to the limits of the line of coast specified in the above quoted Article is, whether the Bay of Lorenzo Marques is the bay in front of the Portuguese factory at the mouth of the river of the same name (also called the Dundas or English River), as Her Majesty's Government believe; or whether it comprehends the whole of Delagoa Bay, as the Portuguese Government contend, which would extend Portuguese territory some miles south of the most southern of their establishments, and into territories where they have never held sovereignty or possession. I must, in the first place, observe that the original Portuguese factory was situated on the left or northern bank of the Lorenzo Marques: and although, after its destruction by some French river cruisers, it was removed to the southern bank in the Temb  territory, it is true they (the Portuguese) paid an annual present, as quit-rent for the land they held, to King Capella, who never admitted their right without his permission.

It is clear that, had the Portuguese Government believed at the time of the construction of this factory that they had a right to the southern bank of the Lorenzo Marques, they would have established their factory on that bank, which would have given them the command of a river, said to be navigable for nearly 200 miles into the interior.

It is true that the Marquis de Palmella, in his correspondence with Lord Dudley in 1827 on this subject, endeavoured to establish the right of the Portuguese Crown to the territories of Temb  and Mapoota, south of the Lorenzo Marques; but Lord Dudley, in reply, that he could not perceive that the Marquis de Palmella "had brought forward the slightest evidence whatever in support of the claim that the Portuguese Government possessed an unalienable power over the territory of the Chiefs of Mapoota, and His Majesty's Government considered that the Portuguese neither have, or ever had, any settlement at Mapoota, or at any spot so low down as Mapoota." And, in reference to the Treaty of 1817, his Lordship observed that the IIInd Article of the Treaty, allowing for the utmost latitude of expression, might include every foot of territory between the Cape Delgado and the Bay of Lorenzo Marques, but it could not be held to mean the territory of these places inclusive. Her Majesty's Government, on these grounds, are consequently of opinion that the Lorenzo Marques River is and ought to be considered as the southern boundary of the Portuguese territories on the east coast of Africa, and as such they regard it.

In March 1823 Captain Owen, of the British Navy, concluded a Treaty with the King of Temb , by which the latter ceded the territories of Temb  and its dependencies to the British Crown, and in the following August the same officer concluded a Treaty with the King of Mapoota, by which that Sovereign placed his territories under the protection of the British Crown. Her Majesty's Government, therefore, in taking the steps they have considered it expedient to take as regards Inyack, have acted on a clear view of their own lawful rights, and they cannot admit that the Government of Portugal have any grounds, either for protest or for the demand for the reparation which they have advanced through their Minister in London.

Finally, I must add that Her Majesty's Government, in the course they have pursued in this question, have been chiefly guided by a desire to promote innocent and lawful trade in Delagoa Bay, and to intercept the slave traders who have hitherto carried on their Traffic with impunity in the adjacent possessions of Portugal; for, although as I have on several occasions in my official correspondence with your Excellency's Department stated, Her Majesty's Government feel bound to believe that the Portuguese Government are acting in good faith in their endeavours to suppress Slave Trade, it is still the bounden duty of Her Majesty's Government to take every step in their power to check proceedings which are, unfortunately, still carried on by the subjects, and with the apparent sanction of the local authorities of Portugal, in direct violation of the engagements and of the policy of their own Government.

I avail, &c.
(Signed) A. C. MAGENIS.

APPENDIX XIII.

Proclamation and Notice of the President of the Transvaal Republic.

I, MARTHINUS WESSEL PRETORIUS, President of the South African Republic, acting with the advice and consent of the most noble and estimable Council of said Republic:

Proclaimed by these, that the boundary of the Republic shall be as follows:—

On the east, in one part, as per Treaties between the Republic and the Kafir Chief Muzwaas, dated 25th July, 1846, and 21st July, 1855, from the lowest kloof of Carnatic northward, along the mountains, to the lower side of the Olifants River valley.

North of Olifants River to the top of the Pokioenie; from there in a straight line north-eastward to the Limpopo or Crocodile River, where the Pafories River joins it; and northwards along that river to where the Spelonken Mountains stretch towards the Crocodile River; along these mountains to where they turn northwards towards the Zouga River. From this western extremity or bend of the mountains in a straight line to the River Kuway, where the River Hangalie flows into it; then along the River Kuway to where this river flows into the Zouga River; along the Zouga to the Lake Ngami; west of said lake in a straight line to the northern end of the Langeberg; and along these mountains to the border between the Republic and the ground belonging to Mahura Gazibon and Tautje, including the territory proclaimed* the Republic, by Proclamation of 1858. Furthermore it is proclaimed: from the lowest kloof of Carnatic, with the old boundary of Muzwaas, up to the River Muzutie, including

* *Sic* in original.

the Pongola River and the Muzutie River, to where it flows into the sea on the east coast of Africa, and including one mile of ground on each side of the rivers.

(Signed) M. W. PRETORIUS, *President*.

By order:
(Signed) J. W. SPRUYT, *Government Secretary*.

Section 553. To the Order Section 25 of the Resolution of the Executive Council, dated 23rd January, 1868. Containing to the Order.*

His Honour informs the Executive Council that he commissioned Mr. David Forbes in 1866 to make researches for a harbour obtainable on the east side of the Republic, and lays before them a Report forwarded by that gentleman, with a map, showing that there exists a suitable harbour which is not in the possession of any European Power. The Executive Council approves of the way in which his Honour has acted in this matter, and wish to recommend the Honourable Volksraad to proclaim without delay the River Mazuti, as that river has its origin in the Republic, and as the mouth of this river in Delagoa Bay is declared to be free by the English Government, according to the Natal Government "Gazette" of October, 1867.

The Executive Council also wish to recommend the Volksraad to grant to Mr. Forbes, as remuneration for his services, six farms, provided that all accounts contained in his Report shall be proved to be accurate, this being the agreement made between his Honour the President of the State and Mr. Forbes, in case he should succeed in his undertaking.

APPENDIX XIV.

Senhor Figaniere e Morão to Lord Clarendon.

My Lord,

Portuguese Legation, London, June 14, 1869.

HIS Majesty's Government has learned from information lately received, that the Commander of the British naval forces stationed at the Cape of Good Hope had orders to take formal possession of the lands of Catembe (Tembé) and Maputa (Mapoota), situated on the south side of the Bay of Lorenzo Marques, and that those orders were founded on the so-called Treaties made with the respective petty kings in the months of March and November, 1823, by Captain Owen of the Royal British Navy.

The right of the Crown of Portugal to all the territories washed by the Bay of Lorenzo Marques (Delagoa Bay of the English maps) is incontestable, and Great Britain has even explicitly and solemnly acknowledged it to be so in Article II. of the Convention of July 28, 1817.

The question which arose on this subject between the two Governments in 1826 was interrupted in 1828, in consequence of the civil war which broke out in Portugal in that year.

That question was occasioned by the act of the aforesaid Captain Owen, who took forcible possession of the ship "Eleanor," as being implicated in the crime of smuggling, when she was legally staying in the port of Lorenzo Marques, by order of the Portuguese authorities.

Mr. Canning, at that time His Britannic Majesty's Principal Secretary of State in the Department of Foreign Affairs, in replying, on the 25th of April, 1827, to the reclamation of the Portuguese Ambassador, gave it to be understood that Captain Owen sought to justify his proceedings by the doubt which he entertained whether the territory of Mapoota, where that ship had been seized, belonged to the Crown of Portugal; and, in consequence thereof, Mr. Canning asked for information as to the principles on which the Portuguese right of sovereignty over the territory in question was founded.

The Portuguese Ambassador, who was at that time the late Duke of Palmella, declared to Lord Dudley, Mr. Canning's successor, in a note of the 23rd May, 1827, that the rights of the Crown of Portugal were founded—

1st. On the incontestable priority of the discovery of that African coast from the first voyages of the Portuguese to India.

2ndly. On the Portuguese factories founded there and defended by the fortress of the Bay of Lorenzo Marques, where there was a garrison detached from the armed force of Mozambique.

3rdly. On the Conventions and acts of recognition continually repeated for ages on the part of the Chiefs of the populations inhabiting that coast, and who had always acknowledged the sovereignty of the Crown of Portugal.

4thly. On the constant admission of those rights on the part of all European Governments, which had always respected them, as would be proved by the simple inspection of the geographical maps.

5thly. Finally, in Article II. (already referred to) of the Convention of the 28th of July, 1817, in which there was the proof of the explicit and formal adhesion of the British Government itself to the rights of the sovereignty of the Crown of Portugal over all the territories of the eastern coast of Africa comprised between Cape Delgado and the Bay of Lorenzo Marques.

It appears that the aforesaid Captain Owen, unaware of the existence of that Convention, took the opportunity of his stay in the Bay of Lorenzo Marques to induce the Chiefs of the territories of Catembe and Mapoota to sign the so-called Treaties of 1823, by which they placed themselves under the protection of Great Britain.

But the Portuguese Ambassador destroyed the importance of those surreptitious Treaties by presenting to His Britannic Majesty's Government irrefragable documents proving the relations of

sovereignty existing between Portugal and the aforesaid Chiefs, including the protest signed by the petty King of Mapoota himself, and dated 8th of October, 1825 (subsequent to those so-called Treaties), in which he declared that he only acknowledged the Portuguese as Lords of his lands, and that he never intended, nor was it possible, for him to make a donation of them to his Britannic Majesty, because they belonged to the King of Portugal.

Lord Dudley, being unable to refute the solid argument upon which the Portuguese Ambassador rested his case, wished nevertheless to maintain, in his note of December 5, 1827, that, with regard to the possessions mentioned in Article II. of the aforesaid Convention, it was to be understood that they extended between Cape Delgado and the Bay of Lorenzo Marques, but did not comprise those territories "inclusively."

The Portuguese Ambassador, combating this erroneous interpretation, in his note of May 22, 1828, also triumphantly demonstrated that, in regard to Cape Delgado, there could be no question, because that was the determined point where the Portuguese possessions commenced; and as to the Bay of Lorenzo Marques, when it was said that those possessions terminated there to the south, the word "exclusively" could never be understood, when it was indubitable that the Crown of Portugal had for ages possessed ports and establishments within the compass of that Bay. Therefore, it was undeniable that the word "inclusively" was to be understood, and that no impartial judge who should be required to interpret the sense of the said Article would hesitate to decide that the whole of the Bay of Lorenzo Marques ought to be considered as comprised in the territories belonging to the Crown of Portugal, since no other limits were specified.

Even the English writer, James Horsburgh, mentions the ruins of the ancient Portuguese fortification on the southern margin of that Bay, at page 258 (edition of 1864, vol. I.) of his well known routier, entitled, "Indian Directory; or Directions for Sailing to and from the East Indies, &c." The testimony of an authority so worthy of credit, will certainly not be suspected by the British Government, and it is to be wondered at that Captain Owen should not be aware of that circumstance when he wished to deny the right of Portugal to possessions in that Bay.

Thus the question remained pending, because Her Britannic Majesty's Government never replied to the Portuguese Ambassador's said note of May 22, 1828, which was an answer to that of Lord Dudley.

That same Government, having allowed thirty-three years to elapse without replying to the said note, and having given to understand by its silence that it could not refute the arguments adduced therein, to establish our right to the whole of the Bay of Lorenzo Marques, resolved in the month of November, 1861, to take possession of the Islands of Inyack and Elephant, washed by the waters of that Bay, and eight years afterwards ordered that possession be taken of the lands of Catembe and Maputo against every principle of the law of nations.

Even admitting that the rights of the Crown of Portugal to the territories mentioned in the Convention of July 28, 1817, were doubtful, which they are not, it is undeniable that Her Britannic Majesty's Government had no right to interpret, by itself alone, an Article that was said to be doubtful, the more so as that Convention did not create rights which existed long before.

It is evident, then, that the possession of those lands, which Her Britannic Majesty's Government has ordered to be taken, without the previous and explicit consent of His Most Faithful Majesty's Government, must be considered as a violation of the Portuguese territory.

The Undersigned, Chargé d'Affaires of Portugal, in pursuance of the instructions which he has received from his Government, has therefore to bring the foregoing statement to the knowledge of his Excellency Lord Clarendon, Her Britannic Majesty's Principal Secretary of State for the Department of Foreign Affairs, and to claim from the good faith of the British Government and the friendly feelings which happily exist between the two countries, that this question may be brought to a conclusion, not by violent means, but by negotiation, after having duly discussed:

The Undersigned, &c.

(Signed)

FIGANIERE E MORAO.

APPENDIX XV.

Lord Clarendon to Senhor Figanieri e Morão.

Sir,

Foreign Office, August 27, 1869.

WITH reference to my note to you of the 29th of June last, I have the honour to acquaint you that I have made inquiries at the Colonial Office, and Board of Admiralty, with reference to the report which has reached the Portuguese Government, that the Commander of the British Naval Forces stationed at the Cape of Good Hope, had received orders to take formal possession of the lands of Catembe (Tembé), and Maputa (Mapoota), situated on the south side of the Bay of Lorenzo Marques; and I now beg leave to inform you that no such instructions have been issued by Her Majesty's Government, or by the British authorities on the Cape station.

The report alluded to by you, may probably have arisen in consequence of one of Her Majesty's ships having been sent to Delagoa Bay, with the view of ascertaining the truth of certain rumours that had reached the authorities at the Cape, to the effect that certain Agents of the Transvaal Republic had established ports on the shores of that Bay.

Under these circumstances, I do not think it necessary to enter into discussion in regard to the rights of sovereignty over the territories in question.

I have, &c.
(Signed) CLARENDON.

APPENDIX XVI.

Senhor Figanhère e Morão to Lord Clarendon.

My Lord,

London, September 4, 1869.

I HAVE the honour to acknowledge the receipt of the note which your Excellency was pleased to address to me on the 27th of August last, and in which your Excellency informs me, with reference to the intelligence that had come to the knowledge of Her Majesty's Government, to the effect that the Commander of the British Naval Forces at the Cape of Good Hope had received orders to take formal possession of the territories of Tembê (Catembe), and Mapoota (Maputo), situated in the Bay of Lorenzo Marques, as stated in my note of 14th June last, that no such orders had been issued by Her Britannic Majesty's Government, nor by the authorities of the Cape.

Your Excellency is also pleased to mention the fact, which perhaps gave rise to that intelligence, adding, that under these circumstances you consider it unnecessary to enter into a discussion in regard to the right of sovereignty over the territories in question.

Very glad to learn that the intelligence referred to was not well-founded; it is my duty to assure your Excellency that I shall not fail to make His Majesty's Government acquainted with your Excellency's note.

I have, &c.
(Signed) FIGANIERE E MORAO.

APPENDIX XVII.

Sir C. Murray to the Duke de Saldanha.

M. le Ministre.

Cintra, August 6, 1870.

MY attention has been called to a statement which has appeared in the "Diario de Noticias" of the 4th instant, to the effect that the Governor of Lorenzo Marques had, on the 5th of April last, taken formal possession of the Island of Inyack, or Unhaca, on the east coast of Africa, in the name of His Most Faithful Majesty's Government.

As your Excellency will be aware, by the note addressed by Sir A. Magenit to the Marquis of Loulé, on the 18th of March, 1862, and by my note to the Marquis de Sá da Bandeira, of the 6th of February, 1869, this island has already been ceded to Her Majesty's Government, and forms a British dependency, subject to the Colony of Natal.

I trust, therefore, that your Excellency will enable me to inform [my Government that this report is incorrect.

I avail, &c.
(Signed) CH. A. MURRAY.

APPENDIX XVIII.

Sir C. Murray to the Duke de Saldanha.

M. le Ministre,

British Legation, Lisbon, August 25, 1870.

NEARLY three weeks have elapsed since I had the honour to address to your Excellency my note of the 6th instant, inquiring whether there was any truth in the report published in a public journal of this city, to the effect that formal possession had been taken by the Portuguese Governor of Lorenzo Marques, in the name of the Portuguese Government, of the Island of Inyack, a British dependency, subject to the Colony of Natal; but I have, as yet, received no answer from your Excellency.

I have now the honour to call your Excellency's most serious attention to this matter, and to request you to favour me, as early as possible, with an answer to my note, which I still hope will be of a satisfactory nature.

I avail, &c.
(Signed) CH. A. MURRAY.

APPENDIX XIX.

Senhor C. Bento da Silva to Sir C. Murray.

Foreign Department, Lisbon, September 19, 1870.

Most Illustrious and Excellent Sir,

(Received September 21.)

IN addition to the Duke de Saldanha's note dated the 26th of August last, and in reply to the notes which your Excellency addressed to him on the 6th and 25th of that month, relative to the possession of the Island of Unhaca, said to have been taken by the Governor of the district of Lorenzo Marques, I have to state to your Excellency that the Minister of Marine wrote to me upon this matter on the 15th instant.

His Excellency informs me that a despatch dated the 3rd of August last, on board the corvette

"Infante Don Henrique," at anchor in Simon's Bay, has been recently received from the Governor-General of the province of Mozambique, wherein he reports that a representation had been made to him by the Governor of the Colony of the Cape of Good Hope against the occupation of that island by Portugal; and, inasmuch as negotiations are pending between His Majesty's Government and that of Her Britannic Majesty with respect to the Bay of Lorenzo Marques, to the whole of which the Crown of Portugal considers that it possesses an exclusive right, his Excellency has thought it his duty to issue to the said Governor-General the Decree (Portaria) of which I have the honour to transmit a copy herewith to your Excellency, ordering him to withdraw the Portuguese garrison from the said island, upon the ground that it appeared to him that while those negotiations are pending neither of the two Powers should occupy the territory in question.

I renew, &c.
(Signed) CARLOS BENTO DA SILVA.

APPENDIX XX.

Sir C. Murray to the Marquis d'Avila.

M. le Ministre,

Lisbon, February 27, 1871.

IN a note dated the 19th of September in last year, Senhor Carlos Bento de Silva, then Minister for Foreign Affairs, informed me that the Minister of Marine and Colonies had, on the 15th of the same month, instructed the Governor of the Province of Mozambique to withdraw the Portuguese troops from the Island of Inyack.

Nevertheless, according to information received by Her Majesty's Government, it appears that the Portuguese troops still remained in that island in the month of December last, and that the orders mentioned in the note to which I have above alluded had not been carried into effect.

I have the honour, therefore, in compliance with instructions which I have received from Her Majesty's Government, to call the serious attention of your Excellency to this fact, and to request that your Excellency will furnish me at your earliest convenience with some explanation as to the delay which has taken place in the withdrawal of the Portuguese troops from the British dependency of Inyack.

I avail, &c.
(Signed) CH. A. MURRAY.

Marquis d'Avila to Sir C. Murray.

Most Illustrious and Excellent Sir,

Foreign Department, Lisbon, March 4, 1871.

I HAVE the honour to acknowledge the receipt of the note which your Excellency addressed to me on the 27th of February last, requesting, in the name of your Government to be made acquainted with the reason why the orders contained in the "Portaria," of the 15th of September of last year, relative to the evacuation of the Island of Inyack by the Portuguese forces had not been carried into effect.

It is my duty to state to your Excellency in reply, that it appears from a despatch of the Governor-General of Mozambique, dated the 30th of November last, that the said Governor-General had caused the necessary orders to be issued to the Governor of the district of Lorenzo Marques for the withdrawal of the garrison stationed in that island, and it is to be hoped that the said orders have been actually complied with.

I avail, &c.
(Signed) MARQUIS D'AVILA E BOLAMA.

APPENDIX XXI.

Extract from the "Diario" of July 11, 1870.

(Translation.)

Sire,

Foreign Department, Lisbon, July 7, 1870.

NOT much more than thirty years ago Dutch colonists from the Cape of Good Hope, known by the name of Boers, or cultivators, settled in the interior of Eastern Africa, and formed two republics, which are at present recognized as independent States by the nations of Europe—that of the Free State of Orange and that of the South African Republic, or of Meridional Africa. The latter Republic, which contains at present a population of not less than 300,000 souls, extends on the west of the Portuguese possessions of Eastern Africa from the Transvaal, as far as Limpopo or Golden River, to the east of which lie our districts of Lorenzo Marques (Delagoa Bay) and Inhambane. We have maintained unchanged our friendly relations with it, and a considerable number of Portuguese have settled at Zoutpansberg and in other points of its territory.

To draw these relations closer in an official manner, and to define our boundaries between our possessions and that State, has become a necessity for both countries. The Board for the Colonies mentioned it in their Report of the 15th March, 1853, and even suggested the basis of a Treaty, in view of information furnished to the Government by our Consul-General at the Cape of Good Hope, which basis was approved, and instructions in this sense were issued to the Governor-General of Mozambique and to our Consul-General at the Cape in that same year, and again in 1856.

Difficulties, which it would be tedious to describe, prevented the Treaty from being concluded between our Plenipotentiary and those of the Republic, and signed by them before the 29th of July, 1869.

This Convention, whether it be considered as a Treaty of Commerce, or as one of boundaries, is one of great importance.

As a Treaty of Commerce its importance can only be unknown to those who will not calculate the advantages which will accrue to our possessions in Eastern Africa, especially in the southern districts, from the regular establishment of trade and of means of communication between the two States.

The proximity of Lorenzo Marques to Pretoria, the capital of the Republic, and to a district so important as that of Lydenburg; and the facility of communication, whether it be by regular roads, which are about to be made, or through the rivers of Lorenzo Marques and Manhica, and even through the River Maputo or Umzeiti; the favourable Customs Tariff of that Portuguese district; and, in fine, the natural sympathy felt by the inhabitants of the Republic towards the Portuguese, are circumstances which will necessarily tend to draw to Lorenzo Marques the important import and export trade of the Transvaal, and the tide of emigration for the promising exploration of the golden strata which were discovered three years ago beyond the Limpopo.

The Convention, if looked on as a Treaty of Boundaries, is not of less importance because it lays down the boundaries which had not yet been fixed, which separate our territory from the State of the Transvaal.

The boundaries are fixed in the most advantageous manner for Portugal. On the south a line starting from the coast in 26° 30' of latitude is continued to the west as far as the mountains of Lebombo, thence to the north along the summit of the mountains as far as the River Incomati, whence it runs to the north-north-east, as far as the mountain Pokionescop to the north of the Elephant River, and thence to the north-north-west, as far as the ridge of the mountains of Chicundo, where the River Umbovo flows, and from that point as far as the junction of the River Pafori with that of Limpopo.

The importance of the territory on this side of the line of boundary, among which it will be sufficient to mention the importance of that which extends between the hills of Maloio and Chicundo, and the recognition by the adjacent country of our altogether incontrovertible right to the whole of the Bay of Lorenzo Marques from 26° 30', are strong reasons to justify the Treaty which has been negotiated by the Portuguese Plenipotentiary.

But, inasmuch as on the 29th of this month the term fixed for the ratification will expire, the country would remain deprived of the advantages which will immediately accrue to it from the Treaty, because the latter would lapse if it were not approved and ratified.

Under these circumstances, the Government having consulted the proper Departments, consider it to be its duty, for the welfare of the country, and in virtue of that necessity, to propose to your Majesty the approval of the Treaty, in order that it may be immediately ratified.

In accordance with these considerations, your Majesty's Ministers have the honour to submit to your Majesty's approval the following draft of a Decree.

(Signed)

DUKE DE SALDHANA.
JOSE DIAO FERREIRA.
DON LUIZ DA CAMARA LEME.
MARQUIS D'ANGIJA.
DON ANTONIO DE CORTE DE LOUZA MACEDO.
COUNT DE MAGALHAES.

Decree.

Taking into consideration the report made to me by the Ministers and Secretaries of State of all the public departments, I am pleased to decree as follows:—

Article 1. The Treaty of Peace, Amity, Commerce, and Boundaries between Portugal and the South African Republic, signed at Pretoria on the 29th of July, 1869, by the respective Plenipotentiaries, is mainly approved in order that it may be ratified by the Executive power.

Article 2. All legislation to the contrary is hereby revoked.

The President of the Council of Ministers, and the Ministers and Secretaries of State for the different public departments shall accordingly cause the same to be carried into execution.

Palace, July 7, 1870.

(Countersigned)

DUKE DE SALDHANA.
JOSE DIAO FERREIRA.
DON LUIZ DE CAMARA LEME.
MARQUIS DE ANGIJA.
DON ANTONIO DE CORTE DE LOUZA MACEDO.
COUNT DE MAGALHAES.

(Signed)

THE KING.

Report.

Gentlemen,

The Treaty of Peace, Amity, Commerce, and Boundaries between Portugal and the South African Republic, concluded and signed at Pretoria on the 29th July, 1869, by the respective Plenipotentiaries, was approved by a Decree of the 7th of July of this year, with a view to its ratification by the Executive power.

But the Treaty has neither been ratified nor have the ratifications been exchanged.

In compliance, therefore, with the rule laid down in the Xth Article of the Additional Act to the Constitutional Charter of the Monarchy, I submit to your approval the following project of Law.

The Law, as passed in Secret Session.

See "Diario,"
December 29,
1870.

APPENDIX XXII.

Sir C. Murray to the Marquis d'Avila.

British Legation, Lisbon, April 25, 1871.

M. le Ministre,

IT has only lately come to my knowledge that the Portuguese Government is now in the act of concluding a Treaty with that of the Transvaal Republic in South Eastern Africa, according to one of the clauses of which Treaty I have reason to believe that the Portuguese Government has included within its territory certain districts to which Her Britannic Majesty's Government has uniformly, and during a long course of years, denied that the Portuguese Crown has any right of possession. I think there can be little doubt (at least according to all the maps which have come under my notice), that the Portuguese boundary line, laid down in the 2nd clause of the XXIIIrd Article of that Treaty, *i.e.*, a line drawn from a point at 26° 30' south latitude, in a direct line to the west, would take in the southern part of Delagoa Bay, including the Island of Inyack and the district on the mainland parallel thereto. It ought to be unnecessary for me to remind your Excellency, after the official correspondence which has taken place on this subject at various epochs since 1827, that the Government of Her Britannic Majesty has never admitted the correctness of the construction put by that of Portugal on the Treaty of 1817, in respect to the boundary line therein laid down. The views of the British Government were distinctly stated to the Marquis de Palmella in a note of Earl Dudley, dated December 5, 1827, and Her Majesty's Government has uniformly supported those views whenever the question has been raised. I must beg also to refer your Excellency to a note addressed by the British Minister here, Sir A. Magenis, on the 18th of March, 1862, to the Marquis de Loulé on this same subject, to which note I find in the archives of this Mission no reply. At more recent dates, namely, in August 1870 (to Senhor Carlos Bento de Salva), and in February 1871 (to your Excellency), it has been my duty to protest, on the part of Her Majesty's Government, against the unwarrantable act on the part of the Governor of Mozambique in causing the Island of Inyack to be occupied by Portuguese troops, and I am happy to be able to add that, both from your predecessor and yourself, I received in reply assurances that instructions had been sent from Lisbon ordering the immediate evacuation of the island by the Portuguese troops. Since that time I had certainly heard of a contemplated Treaty including boundary clauses between the Governments of Portugal and the Transvaal Republic, but, as the concluding Article contained a stipulation that the Treaty, in order to be valid, must be approved and ratified by His Most Faithful Majesty, and the ratifications exchanged within a year from the date of draft, *i.e.*, on or before July 29, 1870, I presumed that the present Government had declined to adopt and carry it out; but as I now learn that it has been laid before and approved by the Chambers in Secret Session, it is my duty to inform your Excellency that if, as I fear may prove to be the case, the boundary clauses of that Treaty shall be found to embrace any portions of territorial possessions whether bay, shore, or land, which Her Britannic Majesty's Government has officially, distinctly, and uniformly declared that it cannot and does not admit to form lawfully a part of the possession of the Crown of Portugal, I feel assured that I am only forestalling the instructions I shall receive from Her Majesty's Government when I enter my formal protest as I now do against any of the boundary stipulations in the said Treaty which may infringe the rights of the British Crown over the southern parts of Delagoa Bay and the adjacent territory.

I avail, &c.

(Signed) CH. A. MURRAY.

APPENDIX XXIII.

Sir C. Murray to the Marquis d'Avila.

British Legation, Lisbon, April 26, 1871.

M. le Ministre,

IN connection with the subject treated of in the note which I had the honour to address to your Excellency yesterday, concerning the Treaty entered into between the Portuguese Government and that of the Transvaal Republic, it is my duty to inform you that Her Britannic Majesty's Government has received intimation of a Proclamation issued by President Pretorius, on the 29th of April, 1868, wherein large native districts are annexed to that Republic.

This Proclamation seems to have been issued preparatory to the Treaty then contemplated between the Transvaal Republic and Portugal, for the settlement of their mutual boundary; and I am instructed by Her Majesty's Government to inquire whether the Portuguese Government, or its accredited agents, were a party to the proceedings of President Pretorius in this matter.

I avail, &c.

(Signed) CH. A. MURRAY.

APPENDIX XXIV.

Mr. Doria to the Marquis d'Avila.

M. le Ministre,

Her Britannic Majesty's Legation, Lisbon, May 24, 1871.

I HAVE the honour to call your Excellency's attention to a communication addressed to you by Sir C. Murray, on the 25th of April last, containing a formal protest against certain boundary stipulations contained in a Treaty about to be concluded between the Government of Portugal and the Transvaal Republic, and also a note addressed to your Excellency on the same subject, on the 26th ultimo, under instructions from Her Majesty's Government.

No reply having been received from your Excellency at Her Majesty's Legation to the notes in question during the past month, I have to request that your Excellency will favour me with an answer for the information of Her Majesty's Government.

I avail, &c.
(Signed) WM. DORIA.

APPENDIX XXV.

The Marquis d'Avila to Mr. Doria.

(Translation.)

Sir,

Foreign Department, Lisbon, July 3, 1871.

I HAD the honour to receive the note which you addressed to me on the 24th of May last, calling my attention to the subject of two notes which Sir C. Murray addressed to me on the 25th and 26th of the foregoing April, and applying for a reply to be transmitted to Her Britannic Majesty's Government.

In the first of the above-mentioned notes, Sir C. Murray impugns the right which Portugal possesses to a part of the territory contained within the boundaries fixed in the XXIII Article of the Treaty of Peace, Amity, and Commerce between Portugal and the South African Republic, which was concluded and signed at Pretoria, on the 29th of July, 1869, on the ground that it includes the southern part of the Bay of Lorenzo Marques (called Delagoa Bay in the English charts), and the Island of Unhaca (Inyack), which Her Britannic Majesty's Government, as stated in the said note, has never recognized, and does not now recognize, as belonging to the Crown of Portugal.

In the same note, Sir C. Murray protests against any boundaries that infringe the rights to which Great Britain considers herself entitled over that part of the Bay of Lorenzo Marques, and over the adjacent territory, with reference to the note addressed by Lord Dudley, on the 5th of December, 1827, to the Ambassador of Portugal in London, the Duke (then Marquis) de Palmella.

Upon this subject it is my duty to state to you, that the said Ambassador did not fail to reply to Lord Dudley's note, as it was his duty to do, by contesting the erroneous interpretation which the British Government wished to place upon the IInd Article of the Convention of the 28th of July, 1817, in virtue of which the British Government had already explicitly and solemnly recognized the right of the Crown of Portugal to all the territories watered by the Bay of Lorenzo Marques.

Lord Dudley maintained that, with regard to the possessions mentioned in the said Article, it must be understood that they extended from Cape Delgado to the Bay of Lorenzo Marques, but did not comprise these territories inclusively.

The Ambassador of Portugal however proved, in his note of May 22, 1828, addressed to the above-mentioned Secretary of State, that inasmuch as it was stated in the above-mentioned Article that the Crown of Portugal possesses on the East Coast of Africa the territory comprised between Cape Delgado and the Bay of Lorenzo Marques, it could never be understood that the whole of that Bay was "excluded," but rather that it was "included," more especially as the Crown of these realms had for centuries possessed to the south thereof several establishments, as is notorious.

It was the proceedings of Captain Owen on the 28th of August, 1825, when he seized by force the British ship "Eleanor," which had been legally detained by order of the Portuguese authorities at the port of Lorenzo Marques, as implicated in the crime of smuggling, that gave rise to the dispute which has occurred between the two Governments, Portuguese and British.

To the note from the Ambassador of Portugal, under date of the 17th of June, 1826, complaining of the unusual proceedings of Captain Owen, Mr. Canning, then His Britannic Majesty's Principal Secretary of State for Foreign Affairs, replied by hinting, in his note of the 25th of April, that Captain Owen had endeavoured to justify his proceedings by the doubt under which he was labouring whether the territory of Maputa (Mapoota), where the said ship had been captured, belonged to the Crown of Portugal, and Mr. Canning therefore applied for information as to the grounds on which the right of sovereignty of these realms over the territory in question was based.

The Ambassador of Portugal declared, in his note of May 23, 1827, to Lord Dudley, Mr. Canning's successor, that the right of the Crown of Portugal was based—

1. Upon the undeniable priority of discovery of that African coast ever since the first voyage of the Portuguese to India.

2. Upon the Portuguese factories established there, and defended by the fortress of the Bay of Lorenzo Marques, which contained a garrison detached from the military forces in the province of Mozambique.

3. Upon the several Conventions and acts of recognition which have been successively repeated for centuries on the part of the Chiefs of the inhabitants of that coast, and who had always recognized the sovereignty of the Crown of Portugal.

4. Upon the constant admission of those rights on the part of all European Governments, who have always respected the same, as might be seen by simply examining the geographical charts.

5, and finally. Upon the afore-mentioned IInd Article of the Convention of July 28, 1817, which contains the proof of the explicit and formal adherence of the British Government themselves to the rights of sovereignty of the Crown of Portugal over all the territories on the East Coast of Africa comprised between Cape Delgado and the Bay of Lorenzo Marques.

It seems that Captain Owen, being ignorant of this Convention existing, availed himself of his stay in the Bay of Lorenzo Marques to induce the Chief of Catembe (Tembé) and that of Maputa to sign the so-called Treaties of 1823, by which he placed them under the protection of Great Britain.

The Ambassador of Portugal, however, in his above-mentioned note of May 23, 1827, destroyed the importance of these surreptitious Treaties by presenting to Lord Dudley incontrovertible documents to prove the relations of sovereignty existing between Portugal and the said Chiefs, including the protest signed by the Chief Maputa himself on the 8th October, 1823, some months after the so-called cession, wherein he declared "that he recognized the Portuguese alone as masters of his lands, and that it never had been his intention to, nor was it possible that he should, make a donation thereof to His Britannic Majesty, because they belonged to the King of Portugal."

Lord Dudley's note of the 5th December, 1827, above referred to, did not in any way invalidate the solid arguments adduced by the Ambassador of Portugal, and Her Britannic Majesty's Government never replied to the note of that same Ambassador dated May 22, 1828, to which I have alluded above, and which was in reply to that of Lord Dudley.

The same Government, allowing thirty-three years to elapse without replying to that note, and leaving it to be understood by their silence that they could not destroy the arguments adduced therein as the basis of our rights to the whole of the Bay of Lorenzo Marques, resolved nevertheless to take possession of the islands of Unhaca and Elephant, watered by that Bay.

In the month of November, 1861, the Governor of the Colony of the Cape of Good Hope sent the war steamer "Narcissus" with orders to hoist the British flag at the Point of Unhaca, and in the adjacent Elephant Island, on the ground that they had been declared British possessions, and annexed to the Colony of Natal.

Against such an act so derogatory to the rights of the Crown of Portugal both the Governor of the District of Lorenzo Marques, and the Governor-General of the Province of Mozambique, did not fail to protest immediately, and His Majesty's Minister in London, Count Lavradio, presented a proper complaint to Lord John Russell in his note of the 22nd of February, 1862.

Even admitting that the rights of the Crown of Portugal over the territories mentioned in the Convention of the 28th of July, 1817, were not as solid as they unquestionably are, it is undeniable, as was stated to Lord Clarendon in a note dated June 14, 1869, of the Chargé d'Affaires of Portugal in London, that Her Britannic Majesty's Government have no right to interpret, "by themselves alone," an Article the sense of which they attempt to call in question.

The specification of the Bay of Lorenzo Marques as the southern boundary of the Portuguese dominions in Eastern Africa, can only be understood as "inclusively," just as Cape Delgado, the northern boundary, has always been understood "inclusively" by all nations, and by Great Britain herself.

The most recent act of this recognition is the Treaty of July 29, 1869, with the South African Republic, already ratified on the part of Portugal, and wherein the southern boundary of that same territory is fixed by means of a right line drawn along the 26° 30' of south latitude.

The boundaries fixed by the President Pretorius, in his Proclamation of April 29, 1868, to which Sir C. Murray alludes in his second note of April 26, to which I likewise reply, have become null and void, on account of the negotiation of that Treaty. Against the enactments contained in that Proclamation, by which it was attempted to annex a certain portion of territory to the same Republic, the Portuguese Plenipotentiary did not fail to protest immediately, as it was his strict duty to do.

The fact alluded to, of His Majesty's Government having recently ordered the Island of Unhaca to be evacuated, proves the good faith of the same Government, and its desire to maintain the *status quo* until the question under debate be definitely settled.

In view, therefore, of what has been stated, His Majesty's Government trust that you and your Government will not fail to recognize the right which the Crown of Portugal possesses to the southern part of the Bay of Lorenzo Marques, and the utter groundlessness of the attempt to call that right in question.

On this occasion I forward to you herewith a printed copy of a Memorandum recently published by the Viscount de Paiva Mamo, respecting the Portuguese possession of Lorenzo Marques,

I renew, &c.

(Signed) MARQUIS D'AVILA E BOLAMA.

APPENDIX XXVI.

Mr. Doria to the Marquis d'Avila.

M. le Ministre,

Her Britannic Majesty's Legation, Lisbon, July 7, 1871.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 3rd of July, which I have received on the 6th instant, regarding the Treaty which your Excellency informs me has been ratified on the part of the Portuguese Government with the Transvaal Republic, and also having reference to the question of the boundary line between the English and Portuguese possessions in Delagoa Bay.

I took the earliest opportunity to forward your Excellency's communication to the Earl Granville; but it is impossible for me to receive any reply to that communication from Her Majesty's Government yet, for some days, owing to the time required for the transmission of letters between England and Portugal.

I received this morning a despatch from the Earl Granville on this subject, and his Lordship instructs me to inquire from the Portuguese Government by what title the Government of His Most Faithful Majesty claims the boundary set forth in detail in the 2nd section of the XXIIIrd Article of the Treaty between the South African Republic and Portugal, of July 29, 1869; and I am further instructed to state to your Excellency that Her Majesty Government do not recognize the claim of Portugal to any point on the east coast of Africa, south of the old factory of Lorenzo Marques, on the inlet of that name, at the north of the English River in Delagoa Bay.

I avail, &c.
(Signed) WM. DORIA.

APPENDIX XXVII.

The Marquis d'Avila to Sir C. Murray.

(Translation.)

Sir,

Foreign Department, Lisbon, August 22, 1871.

I HAD the honour to receive the note which you addressed to me on the 17th of July last, relative to the boundaries fixed in the XXIIIrd Article of the Treaty of July 29, 1869, between Portugal and the South African Republic, and wherein it is endeavoured to impugn anew the right which the Crown of Portugal possesses to the south part of the Bay of Lorenzo Marques.

In reply, I have to state to you that, inasmuch as none of the arguments adduced in my note of the 3rd of the said month, and in that which was addressed to Lord Clarendon on the 14th of June, 1869, for the purpose of proving the right of sovereignty of Portugal over the territory in question, have as yet been destroyed on the part of Her Britannic Majesty's Government, I have at present nothing further to add to what I stated in my note above referred to.

I avail, &c.
(Signed) MARQUIS D'AVILA E BOLAMA.

Mr. Doria to the Marquis d'Avila.

M. le Ministre,

Her Britannic Majesty's Legation, Lisbon, August 28, 1871.

I HAD the honour to receive your Excellency's despatch of the 22nd instant, with reference to the demarcation of the boundary between British and Portuguese territory in reference to Delagoa Bay, as assumed by the Portuguese Government in their recent Treaty with the South African Republic.

I hasten to acquaint your Excellency in regard to the note mentioned as having been addressed to Lord Clarendon on the 14th of June, 1869, that I presume it may have been forwarded to Her Majesty's Government through the medium of the Portuguese Legation in London, as Her Majesty's Legation in Lisbon has not any knowledge of the existence of such a communication, which was not transmitted through this Legation to England.

I regret also to find that your Excellency has not made me acquainted with the grounds on which the Portuguese Government lay claim to territory within the assumed boundary line laid down in the Treaty with the Transvaal Republic.

I avail, &c.
(Signed) WM. DORIA.

APPENDIX XXVIII.

Mr. Doria to the Marquis d'Avila.

M. le Ministre,

Her Britannic Majesty's Legation, Lisbon, September 28, 1871.

I HAVE this morning received a despatch from the Earl of Granville, and I hasten to lay before your Excellency the opinions of Her Majesty's Government with reference to the question of the boundaries of the British and Portuguese possessions in South Eastern Africa, in reply to the Marquis

d'Avila's last correspondence addressed to me on this subject, and to inform your Excellency of the readiness of Her Majesty's Government to acquiesce in the proposal of the Marquis Sá da Bandeira advanced in the note he addressed to Sir C. Murray on the 5th of January, 1869.

Her Majesty's Government cannot admit the pretensions of Portugal to the boundaries claimed by her as set forth in the XXIIIrd Article of the Treaty between the South African Republic and Portugal of July 29, 1869. They are unwilling, nevertheless, to take any steps which might appear unfriendly to Portugal, and they will therefore refrain at present from active measures to assert the rights which they claim over the territory in question.

Being most anxious to remove every cause which might possibly tend to interfere with the good relations happily so long existing between Great Britain and Portugal, Her Majesty's Government would gladly find some amicable solution of this long-pending question; and, as it appears from the note addressed by the Marquis Sá da Bandeira to Sir C. Murray on the 5th of December, 1869, that the Portuguese Government was at that time disposed to submit the matter to the arbitration of a third Power, Her Majesty's Government are willing to adopt that course, should it still be acceptable to Portugal.

Her Majesty's Government attach much importance to a speedy settlement of the question, and I am instructed to express to your Excellency the hope that you will lay this proposal at once before His Most Faithful Majesty's Government, and that your Excellency will inform Her Majesty's Government of their decision.

I avail, &c.
(Signed) WM. DORIA.

APPENDIX XXIX.

Marquis Sá da Bandeira to Sir C. Murray.

Most Illustrious and Excellent Sir,

Foreign Department, Lisbon, February 3, 1869.

IN my note of the 5th ultimo, while treating of the Protocol relative to the question of sovereignty over the Island of Bulama, I had the honour to call your Excellency's attention to two other questions, which have for a long time been pending between Portugal and England, and both of which have reference to African territories, one relating to the south bank of the Bay of Lorenzo Marques, which is called in the English hydrographical charts "Delagoa Bay," situated in 26° south latitude on the east coast; and the other to that portion of the West Coast of Africa included between 5° 12' and 8° south latitude.

On that occasion I forwarded to your Excellency a Memorial printed in 1856, in which the latter question is ventilated, as well as a copy of the map of the Province of Angola, published in 1864.

I have therefore to request your Excellency to have the goodness to call the attention of Her Britannic Majesty's Government to this matter, whom your Excellency can assure that His Majesty's Government is disposed to treat those questions in such a manner as to be able, by means of mutual concessions, to obtain a result which will be advantageous both to Portugal and to Great Britain.

In this proposal His Majesty's Government had also in view to put an end to questions which may give rise to disputes between the two nations, whose mutual interests require that they should entertain perfect harmony towards each other.

The same Government trusts that this proposal will be accepted by the British Government, being guided in this case by the same conciliating spirit which induced them to have recourse to arbitration on the question of Bulama.

Should your Excellency, as His Majesty's Government hopes you will, be authorized to treat this matter, the same Government will appoint a person, who will be able to discuss the matter with your Excellency in a proper manner.

I renew, &c.
(Signed) SA DA BANDEIRA.

APPENDIX XXX.

Senhor Corvo to Mr. Doria.

(Translation.)

Foreign Department, Lisbon, February 26, 1871.

THE Undersigned, His Most Faithful Majesty's Minister and Secretary of State for Foreign Affairs, has the honour to acknowledge the receipt of the note which Mr. William Doria, Her Britannic Majesty's Chargé d'Affaires, addressed to him on the 28th September last, informing him that he had received a despatch from Lord Granville relative to the boundary of the Portuguese possessions in South Eastern Africa in reply to the correspondence which had been addressed to him by his predecessor the Marquis d'Avila e Bolama upon this subject.

The Undersigned has learnt with the greatest pleasure that Her Britannic Majesty's Government, being desirous of doing away with any cause which might tend to disturb the good relations which happily subsist between Portugal and Great Britain, are determined to adopt with pleasure any friendly step which may lead to the definitive solution of the long-pending question between the two Governments relative to the rights of the Crown of Portugal to the territories situated to the south of the Bay of Lorenzo Marques.

In a note addressed to Sir C. Murray on the 5th of January, 1869, the Marquis Sá de Bandeira, then Minister and Secretary of State for Foreign Affairs, expressed the wish of His Majesty's Government to see the pending question terminated relative to the right of the Crown of Portugal to the south bank of the Bay of Lorenzo Marques, which is named Delagoa Bay in the English charts, and is situated in 26° south latitude on the east coast.

On the 3rd of February in that year, in a note likewise addressed to Sir C. Murray, the same Minister for Foreign Affairs alluded to his former proposal, and asserted that His Majesty's Government was disposed to treat that and other pending question in such a manner as by means of mutual concessions to obtain an advantageous result both for Portugal and for Great Britain.

The Portuguese Government was also very anxious to propose the friendly solution of questions which had been for many years under dispute, and, to put an end to pending differences which might give rise to disputes between the two nations who mutual interests requires that they should maintain harmony between each other. His Majesty's Government expected at the time that its proposal would be accepted by the British Government, guided in such a case by the same conciliatory spirit which animated them when they agreed to have recourse to arbitration in the question of Bulama.

Unfortunately, the British Government did not at the time agree to the conciliatory proposal of His Majesty's Government.

Recently, on the occasion of the Treaty of Peace, Amity, Commerce, and Boundaries, between His Majesty the King of Portugal and the Government of the South African Republic, Sir C. Murray, in two notes, one dated the 25th and the other the 26th of April last, renewed, on the part of his Government, the allegations which have been several times brought forward and discussed, and which that Government oppose to the right of Portugal to the territory on the south part of the Bay of Lorenzo Marques, which is included within the limits fixed in the XXIIIrd Article of the above-mentioned Treaty.

In the second of those notes Sir C. Murray also refers to a Proclamation of President Pretorius, dated the 29th of April, 1868, in virtue of which extensive territories were annexed to the Transvaal Republic.

The note of the 3rd of July, 1871, of the Marquis d'Avila e Bolama, replied to the observations made on the part of the British Government. Therein a brief but clear statement is made of the ground upon which the right of the Portuguese Crown to the territories under dispute is based, and a record is also made of the historical facts which explain the origin of the pending questions, and which prove the prudence and good faith with which His Majesty's Government has acted at all times, by earnestly and pressingly endeavouring to arrive by a conciliatory means at a settlement of all the questions which might disturb the harmony existing between the two friendly nations which are united by the ties of an intimate and cordial alliance.

With respect to the Proclamation of President Pretorius, a Proclamation in which an attempt was made to deprive Portugal of extensive territories which belong to it by right, the note already mentioned of the Marquis d'Avila e Bolama, by showing how very much that Proclamation was opposed to the legitimate interests of the Portuguese Crown proves, by the fact of the declaration made at the proper time by the Portuguese Plenipotentiary, that those interests were defended on the part of the Portuguese Government, and subsequently fully recognized in the Treaty of July 29, 1869, between Portugal and the South African Republic.

Sir C. Murray alluded in one of his notes to the occupation of Inyack Island, by Portuguese troops, but expressed his satisfaction at having received from the Government the assurance that express orders had been transmitted for the island to be evacuated by the Portuguese troops. In his note the Marquis d'Avila justly points out the value of the step thus taken by the Portuguese Government as a proof of its good faith and of its sincere desire of maintaining the *status quo* until the pending question shall have been definitively settled.

The Undersigned considers it unnecessary to repeat the facts which took place in November 1861, when Her Majesty's ship "Narcissus" was directed to hoist the British flag at Inyack and in the adjacent Elephant Island, both bathed by the waters of the bay, the right and possession of which belong to Portugal, as well as the protests made, not only by the Governor of Lorenzo Marques, but by the Governor-General of Mozambique, but also by Count Lavradio, His Majesty's Minister in London.

In the actual condition in which the pending questions relative to the territories bathed by the waters of the Bay of Lorenzo Marques are placed, and after the Treaty of Boundaries of July 29, 1869, with the South African Republic, His Most Faithful Majesty sees with great pleasure that Her Britannic Majesty's Government, by acceding to the proposal made by the Marquis Sa da Bandeira, on the 5th of January and on the 3rd of February, 1869, have come to the determination of submitting the question under dispute to the arbitration of a third Power.

The Portuguese Government, acknowledging the expediency of doing away with any cause whatsoever that might alter the cordial relations of friendship and intimate alliance between the two Crowns of Portugal and Great Britain, and being willing to show once more its earnest desire of maintaining in all international intercourse such principles of justice as may be a sure foundation of peace and a pledge of alliance and of cordial friendship, gladly accedes to the arbitration proposed by Her Britannic Majesty's Government.

The Undersigned, &c.

(Signed) JOAO DE ANDRADE CORVO.

APPENDIX XXXI.

*Sir C. Murray to Senhor Corvo.**M. le Ministre, British Legation, Lisbon, November 30, 1871.*

WITH reference to your Excellency's note of the 16th instant, stating the readiness of His Most Faithful Majesty's Government to submit to the arbitration of a third Power the question of the boundary between the British and Portuguese Possessions in South-East Africa, I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs, in the absence of any indication on your Excellency's part of any particular Power to which His Majesty's Government would wish the office of Arbitrator should be intrusted, to inquire whether it would be agreeable to the Portuguese Government that France should be invited to act in the matter; and should that selection not be approved, to ascertain what State they would suggest in the place of France.

I avail, &c.
(Signed) CH. A. MURRAY.

Senhor Corvo to Sir C. Murray.

(Translation.)

Most Illustrious and Excellent Sir, Foreign Department, Lisbon, December 12, 1871.

I HAD the honour to receive the note which your Excellency addressed to me on the 30th November last, wherein your Excellency refers to mine of the 16th of that month, in which I assured your Excellency that His Majesty's Government promptly agreed to submit to the arbitration of a third Power, the question of right of Sovereignty over a portion of territory to the south of the Bay of Lorenzo Marques.

In that note your Excellency declares that you had received instructions from your Government to ascertain whether it would be agreeable to His Majesty's Government that France should be invited to settle the question under discussion.

I have much pleasure in being able to assure your Excellency that His Majesty's Government willingly assents that the choice of an Arbiter should fall upon the person of the President of the French Republic, to whom it fully intrusts the settlement of this matter, and your Excellency may acquaint Her Britannic Majesty's Government therewith.

I avail, &c.
(Signed) JOAO DE ANDRADE CORVO.

APPENDIX XXXII.

*Sir C. Murray to Senhor Corvo.**M. le Ministre, British Legation, Lisbon, January 25, 1872.*

ON receipt of your Excellency's note of the 12th ultimo, I communicated to Her Majesty's Government the assent of that of His Most Faithful Majesty to the proposal that France should be invited to arbitrate on the question of the boundary of the British and Portuguese Possessions in south-eastern Africa.

As it will be necessary, in laying the case before the Arbiter, to specify distinctly the extent of the Portuguese claim, I am instructed by Her Majesty's Government to request your Excellency to furnish them with the exact limits of the territory claimed by Portugal, accompanied by a plan or map of the same.

I am further instructed to inform your Excellency that, as soon as the point is defined on which the decision of the Arbiter is to be obtained, a Protocol of reference will be drawn up for signature by the two Governments, and the draft thereof submitted for the concurrence of His Most Faithful Majesty's Government.

I avail, &c.
(Signed) CH. A. MURRAY.

APPENDIX XXXIII.

*Senhor Corvo to Sir C. Murray.**Sir, Foreign Department, Lisbon, February 19, 1872.*

YOUR Excellency informed me, in your note of the 25th January, that you had reported to Her Britannic Majesty's Government that His Most Faithful Majesty's Government had assented to the proposal that France should be invited to act as Arbiter in the question of the boundary between the Portuguese and British possessions situated in South-Eastern Africa. In that note your Excellency

added that you had received instructions from your Government to request the Portuguese Government to fix the precise limits of the territories to which it considers itself entitled, and to furnish a map or plan of those limits; and you likewise informed me that the respective Protocol for referring the question of arbitration may be signed as soon as the point upon which that arbitration will fall shall have thus been settled.

While congratulating myself on seeing that the time has arrived for terminating a long-standing dispute between Portugal and Great Britain in a manner which, while it will secure for the two allied nations the just enforcement of their rights, must necessarily tend to draw still closer the ties of ancient and cordial friendship which happily unite them, I shall comply with the wish of Her Britannic Majesty's Government, with which your Excellency had the goodness to acquaint me, in order that the pending question may be submitted to the arbitration of France.

Inasmuch as the points upon which the question of the limits and boundary of the Portuguese possessions in the Bay of Lorenzo Marques and the adjacent territories turns, are perfectly well known to both Governments, I beg leave of your Excellency to record now, summarily though it be, the facts which will throw light upon the subject, in order to fix clearly and precisely the matter upon which the award to be given by arbitration will have to fall.

The Portuguese took possession of the Bay of Lorenzo Marques, and of the adjacent territories, including Inyack and Elephant Islands, by the fact of their having discovered that bay in 1544, and built a factory and a fortress on the banks thereof. The Portuguese nation asserted its dominion over and possession of those territories, not only by their continued occupation thereof, but also by their uninterrupted trade with, and by their important expeditions to, the same; this fact being recognized both by the Chiefs of the native tribes and by all the nations with which Portugal maintained intercourse, and which either visited or were acquainted with that part of Eastern Africa. Undeniable proof of this is afforded by numerous documents of the sixteenth and seventeenth centuries, and by the interesting writings of Portuguese authors, who published narratives of the discoveries and maritime events which illustrated the history of Portugal at that time. When at times foreign nations subsequently tried to deprive the Crown of Portugal of the Bay of Lorenzo Marques, and to establish a fortification or factory on its banks for the purpose of insuring their usurpation, the Portuguese always resisted the violence offered to their well-grounded rights, and succeeded in re-establishing their possession of a dominion over the whole of that part of the African coast, keeping the Chiefs of the neighbouring territories under subjection and obedience. In the present century the following companies have established themselves at Lorenzo Marques:—first, in 1817, a company for the whale fishery; and secondly, in 1824, another company, for colonization, and for trading in ivory and other natural products which can be profitably shipped in that bay. These facts afford ample proof that the Crown of Portugal possesses the well-grounded right to complete sovereignty over the district of Lorenzo Marques, including the whole of the Bay of that name.

In confirmation of that right which has at all times appeared, and still appears, to the Portuguese Government to be incontrovertible, in the Additional Convention to the Treaty of January 22, 1815, concluded between Portugal and Great Britain in 1817, the territory included between Cape Delgado and the Bay of Lorenzo Marques, on the east coast of Africa, is expressly mentioned as belonging to the Portuguese Crown. The interpretation which it was subsequently attempted to give to the words, clear and express as they are, of the IInd Article of the Convention, in a note addressed by Lord Dudley on the 5th of December, 1827, to the Marquis of Palmella, then Ambassador of Portugal in London, cannot in any way invalidate the force of the Article above referred to, as was immediately proved, in May, 1828, by the said Marquis of Palmella, in a note to which the British Government never replied: certainly, because they held the lucid arguments adduced by the Portuguese Ambassador to be perfectly well founded.

The fact which gave rise to the notes above referred to must be recorded here, because the claims of the British Government to an unspecified and ill-defined part of the territories in the southern extremity of the Bay of Lorenzo Marques are connected therewith. The British ship "Eleanor" was seized in the waters of Lorenzo Marques, as implicated in the crime of smuggling. Captain Owen, of the British Navy, took possession by force of that ship on the 25th of August, 1825. This act of violence and unusual proceeding of Captain Owen occasioned a just complaint on the part of the Portuguese Ambassador in London.

For the purpose of explaining, and not with a view to justify the act committed by Captain Owen, Mr. Canning, then (25th of April, 1827) Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, requested the Portuguese Ambassador to acquaint him with the ground for claiming for Portugal the right of sovereignty over the territory of Maputa, to the south of the Bay of Lorenzo Marques, the reason for the request on the part of Mr. Canning was that Captain Owen had explained his proceedings by means of the doubt which he entertained as to whether that part of the Bay belonged to Portugal. The circumstance of Captain Owen having instigated the Chiefs of Catembe (Tembé), and Maputa (Mapoota), to conclude a certain kind of Treaties, wherein they declared that they remained under the protection of Great Britain, in manifest contravention of what they had previously stipulated with the Portuguese Government is well worthy of consideration. Captain Owen was strengthening his doubts in this manner.

In the note dated the 23rd of May, 1827, the Marquis of Palmella made a complete narrative of the solid grounds of the right of the Crown of Portugal to the whole of the territory of which our possession and dominion had been called in question. The long period of thirty-three years, during which time no claim was presented on the part of England with respect to the Bay of Lorenzo Marques, and to the adjacent territories, while Portugal maintained her possession thereof during that time, would be an argument, if others were wanting, more than sufficient to prove the validity of the right of His Most Faithful Majesty to the sovereignty over that part of Eastern Africa. On the 5th of November, 1861, the Governor of the British Colony of the Cape of Good Hope sent the steamer-of-war "Narcissus" to the Bay of Lorenzo Marques, with orders to hoist the English flag at the so-called

Point of Inyack and on the small Elephant Island, on the ground that the territory in question had been declared British possessions, and annexed as such to the Colony of Natal. The Portuguese Government could not fail to protest against this manifest violation of its rights. His Majesty's Minister in London, in a note dated the 22nd of February, 1862, addressed a complaint on this matter to Lord John Russell, to which the reply was a repetition of the arguments adduced by Lord Dudley in 1827, which had been already refuted, and which Portugal always considered, and still considers, to be inconsistent.

An act of violence committed in time of perfect peace against a friendly nation, cannot fail to be held to be an offence against right and justice, which it is well to respect and maintain in international relations. His Most Faithful Majesty's Government, not accepting (as it could not do) the consequences which it was attempted to deduct from the proceedings of the "Narcissus" against the lawful rights of the Crown of Portugal to the territories in question, has always entertained the hope that the righteous and high-minded spirit of noble England, and the enlightened views of Her Britannic Majesty's Government, would suffice to place on a good footing a dispute which is so much at variance with the principles of the cordial and constant alliance which have for centuries united the two States.

While defending its rights, and protesting against the violation thereof, the Portuguese Government did not hesitate to propose an arbitration, with a view to the solution of the pending question, and it has had the satisfaction of seeing its proposal accepted by the English Government.

His Most Faithful Majesty's Government, convinced as it is on the grounds which have been summarily pointed out, that to the Portuguese Crown appertains the full right of sovereignty over the Bay of Lorenzo Marques and the whole surrounding district, and as it by no means thinks that the facts which have been alleged against that sovereignty, and which were merely accidental, and not in the least conformable to the principles and rules of international law, can in any way be looked upon as the grounds for a just and well-grounded claim on the part of England, expresses its opinion that to the decision of the arbiter must be submitted the settlement of the question of the boundaries of the Portuguese possessions, including the Bay and the surrounding territory, which Portugal thinks belongs to her.

A circumstance which gave rise to a further recognition of the rights of Portugal to that part of Eastern Africa, and which at the same time confirmed the line of boundary of the Colony, ought to be mentioned here. To the very great surprise of His Majesty's Government, the President of the Transvaal Republic, which bounds the Portuguese Colony to a great extent, published on the 29th of April, 1868, a Proclamation, wherein he stated that extensive tracts of country included in the dominions of the Crown of Portugal, belonged to the Republic. His Majesty's Government immediately protested, through its Representatives, against this invasion of, and manifest attack upon, the Portuguese rights; and shortly afterwards it had the satisfaction to see those rights recognized by the Transvaal Republic, and the line of boundary rigorously fixed in the Treaty of Peace, Amity, Commerce, and Boundaries, concluded between His Most Faithful Majesty and President Pretorius, on the 29th of July, 1869.

On the south, the line of boundary of the Portuguese possession is placed at 26° 30' south latitude from the sea as far as the ridge of interior mountains called Lobombo. The boundary includes the Bay of Lorenzo Marques, and the whole of the surrounding territory, which His Majesty's Government considers, on the just grounds which have been often alleged, and which are summarily pointed out in this note, to be both *de jure* and *de facto* dominions of the Portuguese Crown.

I do not believe that Her Britannic Majesty's Government have ever adduced in a precise and definite manner any claim to any other part of this territory except Inyack Point, and Elephant Island. The allegations formerly made concerning the so-called concessions of the Chief Catembe and Maputa were so inconsistent, and were so completely rejected on the part of Portugal (in the note addressed on the 22nd of May, 1828, by the Marquis of Palmella, then Ambassador in London, to Lord Dudley) that I cannot conceive that the just and enlightened Government of Her Britannic Majesty can at present base their claim upon this point on the occasion of submitting the matter to arbitration. Nevertheless, whatever may be the decision of Her Britannic Majesty's Government thereupon, His Majesty's Foreign Government does not think of refusing to submit this matter to arbitration, although it looks upon it as a matter which does not admit of dispute.

In order to comply in everything with the wishes which your Excellency was good enough to express to me in your note of the 25th of January last, I transmit herewith to your Excellency a map wherein is marked the line which His Majesty's Government considers to be the true line of boundary of the Portuguese possessions to the south of Lorenzo Marques. Having thus complied, as I believe, with what your Excellency requested me to do in the name of your Government, I trust that the Protocol respecting the proposed arbitration may be signed by the two Governments without delay.

I feel sure that Her Britannic Majesty's Government will agree with that of His Most Faithful Majesty that, from this moment, things should be maintained in their *statu quo* in all the territories subject to dispute, in order that the authorities, the delegates of any kind or rank, and the subjects of the two nations should not commit any acts which may either prejudice or favour, assert or invalidate, such rights as are yet dependent upon the arbitration to which the two Governments have determined to submit.

I avail, &c.

(Signed) JOAO DE ANDRADE CORVO.

APPENDIX XXXIV.

*Mr. West to M. de Rémusat.**Paris, November 1, 1872.*

M. le Ministre,

THE Government of the Queen my most august Sovereign, and that of His Most Faithful Majesty the King of Portugal, having been for some time past in discussion relative to their respective claims to certain territories formerly belonging to the Kings of Temb  and Mapoota, including the Islands of Inyack and Elephant, and being unable to come to an understanding on the subject, have at length agreed to refer these claims to the arbitration of a friendly State.

As the two Governments entertain the fullest confidence in the judgment and impartiality of the President of the French Republic, they have determined to unite in requesting his good offices for that purpose.

I have the honour therefore to inclose to your Excellency herewith a copy of the Protocol drawn up in the English and Portuguese languages, which was signed at Lisbon on the 25th of September last,* and to request your Excellency at the same time to communicate this document to the President of the Republic, in order that he may take cognizance of its contents, and declare whether he accepts this proof of confidence on the part of the two Governments.

I have, &c.

(Signed) L. S. WEST.

No. 4.

*Lord Lytton to the Earl of Derby.—(Received September 17.)**Paris, September 16, 1873.*

My Lord,

WITH reference to your Lordship's despatch of the 10th instant, conveying to Lord Lyons the last instructions of Her Majesty's Government on the subject of Her Majesty's claims to the disputed sovereignty of certain territories formerly belonging to the Kings of Temb  and Mapoota, I have now the honour to inclose copy of a note which was yesterday addressed to me by my Portuguese colleague, and accompanied by six printed copies of the Portuguese Case.

Five of these copies are herewith forwarded for the use of Her Majesty's Government. The remaining sixth copy I have retained for the use of Her Majesty's Embassy at Paris.

Count de Seisal having been so good as to show me the draft of his Excellency's note to the Duc de Broglie, forwarding the Portuguese Case for submission to the President of the French Republic, I am enabled to send your Lordship herewith a copy of that document, together with a copy of the note which, in obedience to your Lordship's above-mentioned instructions, I have also addressed to the Duc de Broglie under the same date (viz., 15th September, 1873) in reference to the six copies of the British Case, simultaneously presented by me to the French Government for the use of the President and the Members of any Commission appointed to assist his Excellency in the arbitration of the disputed claims.

In this note I have, as instructed by your Lordship, requested the Duc de Broglie to express to the President the thanks of Her Majesty's Government for his Excellency's consent to act as Arbitrator.

Finally, I have the honour to inclose copy of a note which I have addressed to Count de Seisal in acknowledgment of the receipt of his Excellency's note to me of the same date, and of the copies of the Portuguese Case, whereby it was accompanied.

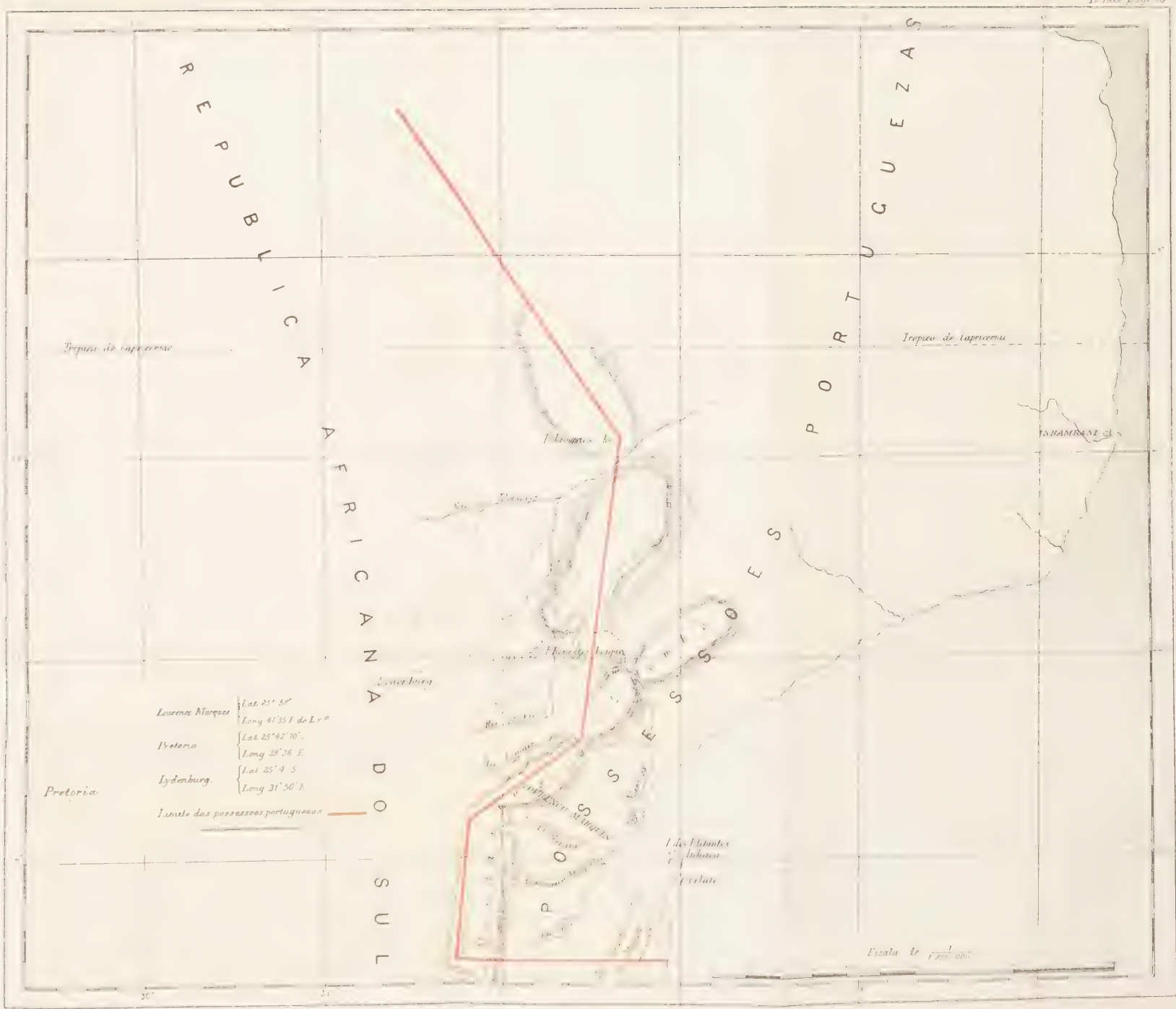
Your Lordship will observe, by reference to these copies, that the Portuguese Case is stated in the language of the Arbitrator, as well as in that of the claimant, whereas the statement of the British Case is in English, unaccompanied by any translation.

I only draw your Lordship's attention to this fact, because my own attention has been drawn to it by Count de Seisal.

I have, &c.

(Signed) LYTTON.

* See page 14.



REPÚBLICA

AFRICANA DO SUL

PORTUGUEZAS

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Tuguezas

Lourenço Marques { Lat. 25° 58'
 Long. 41° 35' E de L. o
 Pretoria { Lat. 25° 42' 10".
 Long. 28° 26' E
 Lydenburg. { Lat. 25° 4' S
 Long. 31° 50' E.

Pretoria

Linha das possessões portuguesas

Escala de 1:100,000

Inclosure 1 in No. 4.

Count de Seisal to Lord Lytton.

My Lord,

Légation de Portugal, Paris, le 15 Septembre, 1873.

AUX termes du Protocole signé à Lisbonne le 25 Septembre, 1872, entre les Plénipotentiaires du Portugal et de la Grande Bretagne, qui confie au Président de la République Française l'arbitrage du conflit existant entre le Portugal et la Grande Bretagne au sujet de la souveraineté du territoire situé au sud de la Baie de Lourenço Marquez, il a été stipulé que les deux Gouvernements devront présenter à l'arbitre, dans le délai de douze mois, le mémoire ou exposition de leur droit.

Ce délai étant prêt à expirer, j'adresse aujourd'hui à son Excellence le Ministre des Affaires Etrangères de la République Française le mémoire imprimé dont j'ai l'honneur de vous envoyer ci-joints six exemplaires; l'un vous est destiné, my Lord, et les autres au Gouvernement de Sa Majesté Britannique.

Veuillez, &c.

(Signé) COMTE DE SEISAL.

Inclosure 2 in No. 4.

BAIE DE LOURENÇO MARQUES.

Question entre le Portugal et la Grande Bretagne soumise à l'Arbitrage du Président de la République Française.

MÉMOIRE PRÉSENTÉ PAR LE GOUVERNEMENT PORTUGAIS.

LE droit qui, dans son essence, est une des plus belles conceptions de notre raison, celle des nécessités morales d'action ou d'inaction entre les hommes, le droit existe pour les individus aussi bien que pour la société. Les nations, de même que les particuliers, ont des nécessités morales d'action ou d'inaction : la raison humaine souffre si ces nécessités sont violées ; elle est satisfaite si on les observe.

Sans doute les nations sont indépendantes. Elles ne reconnaissent, au-dessus d'elles, ni législateur chargé de décréter, ni juridiction pour statuer, ni force légale pour les contraindre à ce qu'elles doivent faire ou ne pas faire dans leurs relations respectives, et pour transformer en nécessité de fait les nécessités morales du droit.

Si la guerre fut trop souvent le seul moyen de résoudre les conflits entre nations ; leur bon sens repousse aujourd'hui cette sorte de duel judiciaire dans lequel la cause la plus juste n'est pas toujours la cause victorieuse.

La substitution de l'arbitrage à la voie des armes, admise déjà chez les anciens,¹ et déclarée en 1863 par le Sénat des Etats-Unis comme clause qui doit être insérée dans les Traités à conclure avec les autres nations, est le moyen naturel de décider toutes contestations qui pourraient surgir entre les peuples ; et il occupe actuellement l'attention de l'Institut de France, éveillée par l'intéressant mémoire de Ch. Lucas.

Un conflit existant depuis quelques années entre le Portugal et la Grande-Bretagne au sujet de la souveraineté du territoire situé au sud de la Baie de *Lourenço Marques*, les deux Gouvernements, animé de l'esprit le plus conciliateur, ont enfin résolu, par le Protocole du 25 Septembre 1872, d'en soumettre définitivement la solution à l'arbitrage du Président de la République Française, mission qu'il a bien voulu accepter, sur la demande des deux parties.

Aux termes de ce Protocole, les deux Gouvernements doivent présenter à l'arbitre, dans le délai de douze mois, le mémoire ou allégation justificative de leur droit.²

Tel est l'objet et le but de ce travail qui est divisé en six parties.

La première comprend la description de la Baie de *Lourenço Marques* (que les Anglais nomment *Delagoa Bay*) ; l'histoire de sa découverte et de son exploration, et

¹ M. Ch. Bétant, "An fuerint apud Græcos Judices certi litibus inter Civitates componendas," Berlin, 1862 ; "Q. et M. Minuciorum sententia inter Genuates et Viturios dicta," edidit et illustravit A. A. F. Rudorff, Berlin, 1842 ; Egger, "Etudes Historiques sur les Traités Publics," Paris, 1866.

² Le Gouvernement Portugais a confié le travail de ce Mémoire au Vicomte de Paiva Manso (le Docteur Lévy Maria Jordão), du Conseil de Sa Majesté, Substitut du Procureur-Général de la Couronne et des Finances, et Conseil du Ministère de la Marine et des Colonies.

une notice succincte de l'établissement Portugais et des diverses tribus indigènes qui lui sont soumises.

La seconde contient l'histoire de l'établissement de la souveraineté Portugaise sur toute la baie.

L'exposé de la nature du conflit entre le Portugal et l'Angleterre et de ses différentes phases jusqu'à ce jour, fait l'objet de la troisième partie.

La quatrième présente les titres sur lesquels le Portugal fonde son droit à la possession de toute la baie.

La cinquième combat les prétentions de la Grande-Bretagne à une partie de cette baie.

La sixième partie, résumant toutes les autres, conclut à une solution favorable au Portugal, solution qui semble être la seule constituant l'expression du droit.

Le mémoire est suivi des documents sur lesquels il s'appuie.

La confiance que la France a témoignée à la Couronne Portugaise, en l'acceptant, en 1558, comme arbitre dans son conflit avec l'Angleterre au sujet de la possession de Calais,¹ le Portugal la dépose aujourd'hui tout entière entre les mains du Chef de la République Française, pour résoudre son actuel différend avec l'Angleterre au sujet de la Baie de Lourenço Marques.

Mémoire.

PREMIÈRE PARTIE.

Chapitre I.—Description de la Baie de Lourenço Marques et son importance.

De l'immense domaine colonial que possédaient les Portugais, il leur reste encore, dans l'Afrique orientale, la province de Mozambique, qui commence au Cap Delgado au nord, vers le 10° 41' de latitude, et finit au sud dans la Baie de Lourenço Marques (que les Anglais nomment *Delagoa Bay*) au 26° 30' de latitude, et qui embrasse près de 400 lieues de littoral.²

A l'entrée de la baie se trouvent deux pointes dont l'une, au nord, celle du *Manhiça*, est formée par l'île de *Benquenele*, et l'autre, au sud, par l'île de l'*Unhaca* ou *Inhaca* (les Anglais écrivent *Inhyac*).

L'île de l'*Unhaca*, que nous appelons aussi île *Sainte-Marie*, est séparée par un canal étroit et rocheux du Cap *Sainte-Marie* ou *Colato*,³ où finit la côte des *Fumées* (*Fumos*) proprement dite, qui commence au Cap *Sainte-Lucie*.

Cette île, d'une élévation de 240 pieds au-dessus du niveau de la mer,⁴ a six milles de longueur dans la direction du nord-est au sud-ouest et quatre de largeur ; elle est importante autant par sa position que par son climat tempéré, qui en fait une espèce de *sanitarium*.

A peu de distance et plus à l'intérieur vers le nord-ouest, se trouve la petite île des *Eléphants* également nommée île des *Portugais* à cause du grand nombre de Portugais qui, en 1588, y trouvèrent un refuge après le naufrage du vaisseau "Saint-Thomas," et y moururent des fièvres.⁵ A marée basse on peut s'y rendre de l'île de l'*Unhaca* en ayant de l'eau jusqu'aux genoux.

L'île ou îlot des *Eléphants* forme, avec celle de l'*Unhaca* au sud de la baie, un port excellent qui est désigné sur les cartes modernes sous le nom de *Port-Melville*.

La baie a quatorze lieues dans sa plus grande largeur, du nord au sud ; entre ces deux îles et l'embouchure du fleuve du *Saint-Esprit* elle est large de cinq lieues de l'est à l'ouest.

Sur presque tous les points elle est très-profonde et offre un mouillage qui varie de 6 à 12 brasses, et qui, dans quelques endroits, va jusqu'à 20 brasses, comme entre les bas-fonds de Cockburn et l'île *Chefine*.⁶ C'est un parage à l'abri de tous les vents, et qui peut contenir un grand nombre de navires et leur offrir un refuge contre les tempêtes et les vents qui règnent à l'embouchure du canal de Mozambique ; ce

¹ MSS. de la Bibliothèque Nationale de Paris (fonds du Roi), Code 9,738, p. 55 ; Code 9,739, p. 7, v° ; et Code 9,740, p. 14.

² La première carte annexée à ce Mémoire contient le plan de la baie.

³ Désignation Anglaise.

⁴ Lyons McLeod, "Travels in Eastern Africa," London, 1860, tome i, p. 152.

⁵ J. B. Lavanha, "Naufragio de nau 'Santo Alberto,' e Itinerario da Gente que d'ella se salvou," Lisbonne, 1597.

⁶ James Horsburgh, "Instructions Nautiques," 3e édition revue sur la 7e édition Anglaise, Paris, 1861, tome 1, p. 365.

qui fait que cette baie est considérée comme la meilleure de toute l'Afrique australe et orientale.

Trois grands fleuves descendent de l'intérieur et viennent se jeter dans la baie de *Lourenço Marques*; le mouvement de la marée s'y fait sentir sur un parcours de quelques lieues. Ce sont: *Manhiça* au nord, le *Mapouto* au sud, et le *Saint-Esprit* presque au centre.

Le *Manhiça* (que les Anglais nomment *King George's River*) se jette au nord dans la baie, à trois lieues de distance du fleuve *Saint-Esprit*; en face de son embouchure se trouve l'île de *Benguelene* ou du *Miel*, qui partage le fleuve en deux canaux.

L'île des *Citrons* (*Limões*) est située à 9 milles de l'embouchure. A 80 milles de distance, le fleuve se divise en deux branches. La première suit la direction du nord-est, prend, à une distance de 3 ou 4 milles, celle du nord-ouest et aboutit à une lagune au pied de la montagne du *Musuate Grande*. La seconde se dirige pendant 9 milles vers l'est, fait quelques détours vers le sud-est, coule ensuite au nord nord-est, et continue enfin vers le nord-ouest jusqu'à ce qu'elle rencontre la montagne du *Musuate*; après l'avoir contournée, elle prend le nom de la rivière *Sabe* (ou des *Sables Blancs*), qui vient s'y jeter, ainsi que l'*Incomati*.¹

Diogo de Couto croyait que ce fleuve prenait sa source, ainsi que le Nil, dans le Grand Lac; le Hollandais Jacob de Bucquoi² lui a assigné une source qui coïncide à peu près avec le lac *Ngami*; et Owen pensait qu'elle était située sous 20° de latitude sud; mais ce n'étaient que des suppositions erronées car l'*Incomati*, le *Save*, et l'*Ungwenia*, qui joignent leurs eaux dans le *Manhiça*, prennent tous les trois leur source entre les 25° et 26° de latitude et les 30° et 31° de longitude.

Le *Mapouto* (que les Anglais nomment *Mapoota River*) connu parmi les indigènes sous le nom de *Anzette*,³ suivant l'orthographe Portugaise, ou sous celui de *Umzuti* suivant l'orthographe Anglaise, vient se jeter à l'angle sud de la baie. Il est navigable sur un parcours de plus de 60 milles, et présente, à marée haute, une profondeur de 5 brasses; son parcours est de 80 à 90 milles; il vient du sud-ouest est, et prend sa source vers le 17° degré de latitude sud et le 31° degré de longitude est⁴ dans un groupe de montagnes du pays des *Vatouas*, de la région des Zoulous, au nord-ouest de Port-Natal.⁵

Le compte-rendu du voyage fait par le Sous-Lieutenant Fernando da Costa Leal, Secrétaire de la Commission Diplomatique Portugaise, du Transvaal à Lourenço Marques,⁶ est très important pour la connaissance de ce fleuve.

Celui du *Saint-Esprit*, que nous avons aussi appelé fleuve de *Lagoa* au commencement du seizième siècle, et que les Anglais désignent depuis 1823 sous le nom de *English River*, se trouve à l'est de la baie. C'est le fleuve le plus fréquenté depuis que nous avons entamé des relations commerciales avec les régules de l'intérieur, vers la moitié de ce même siècle. Sur sa rive nord sont bâties la forteresse et la ville Portugaises, à un peu plus d'un mille de distance de la pointe appelée *Ponta alta de Mafumo*, ou *Pointe-Rouge* qui s'élève de 200 pieds au-dessus du niveau de la mer et en face de laquelle se trouve, sur la rive sud, la pointe *Mahona* (*Mawhone*).

Ce fleuve du *Saint-Esprit* est l'estuaire de trois rivières qui viennent y affluer à la hauteur de l'île du *Refugio*, savoir: le *Matolla* (*Matoll River*), à deux milles au nord de son embouchure, le *Tembe* ou *Catembe* (*Tenby River*) au sud, et le *Lourenço Marques* (que les Anglais nomment *Dundas River*) entre les deux autres, à l'est.

Le *Tembe* est navigable pour les bateaux sur un parcours de 60 milles jusqu'aux flancs de la montagne du *Lebombo* ou du *Musuate*, à 30 milles de la frontière qui nous sépare de la République du Transvaal. Des navires tirant 13 pieds d'eau peuvent remonter ce fleuve jusqu'à 19 milles, distance à laquelle parvient l'eau salée.⁷

Il y a encore dans la baie, outre les îles de l'*Unhaca* et des *Eléphants*, qui en forment la pointe sud, deux autres îles, savoir: la *Grande Chefine* (que les Anglais

¹ Compte-rendu de l'exploration des fleuves de la baie par la canonnière-de-guerre Portugaise "Maria Anna," inséré au "Bulletin de la Province de Mozambique," No. 12, du 23 Mars, 1872.

² "Aanmerkelijke Ontmeetingen in de Zestien jaarige Reize naar de Indien," door J. de Bucquoi, Harlem, 1744, p. 9.

³ Diogo de Couto, "Relação do Naufragio da nau 'S. Thomé,'" Lisbonne, 1611.

⁴ George Thomson, "Travels and Adventures in Southern Africa, &c.," Londres, 1827, vol. ii.

⁵ Lyons, McLeod, "Travels in Eastern Africa," Londres, 1860, tome 1, p. 150 et suivantes. A l'égard de la région des Zoulous, on doit lire, Allen F. Gardinier, "Narrative of a Journey to the Zoolu Country," Londres, 1836; Nathaniel Isaacs, "Travels and Adventures in Eastern Africa, descriptive of the Zoolus, &c.," Londres, 1836, et les publications récentes de J. W. Colenso, Evêque de Natal.

⁶ Publié dans le "Bulletin de la Province de Mozambique," de 1870, Nos. 47 et suivants, et de 1871, Nos. 19 et suivants.

⁷ Compte-rendu de l'exploration des fleuves de la baie, faite par la canonnière-de-guerre Portugaise "Maria Anna," publié dans le "Bulletin de la Province de Mozambique," No. 12, du 13 Mars, 1872.

nomment *Chefeen*) et la *Petite Chefine*, que les indigènes appellent île des *Molungos* c'est-à-dire, des blancs. Elles sont situées toutes deux à peu de distance du continent entre l'embouchure du fleuve du Saint-Esprit et celle du Manhiça, mais beaucoup plus près de cette dernière. Entre la *Petite Chefine* et la terre, il existe un canal connu sous le nom de *barre des baleiniers*.

La *Grand Chefine*, à laquelle nous avons aussi donné le nom d'île *dos Passaros* (des Oiseaux) contient des forêts épaisses qui sont notre propriété et où les habitants de la ville de Lourenço Marques vont couper du bois pour leur usage et leur consommation.¹

Nous avons cinq descriptions Portugaises fort intéressantes de la baie, qui datent du seizième siècle, et du commencement du dix-septième.

Celle d'Alvaro Fernandes, de 1552; celles de Manuel de Mesquita Perestrello, de 1554 et de 1575; celle de João Baptista Lavanha, de 1597; et celle de Diogo de Couto, de 1611. Nous les donnons dans l'appendice 1^{er}, à cause de l'intérêt qu'elles offrent.²

L'importance que les conditions naturelles de la baie du Lourenço Marques lui ont acquise, augmente chaque jour pour d'autres motifs.

La pression du monde Européen sur le Continent Africain, qui s'est déjà fait senti, en Egypte, en Algérie et au Cap de Bonne-Espérance, agit maintenant dans l'Afrique australe avec une grande puissance. La fièvre de l'or y attire une émigration considérable de l'Europe, de l'Amérique et même de l'Australie. Des lignes de navigation côtière et des réseaux de routes et de chemins de fer y sont en projet; néanmoins, il est toujours difficile d'escalader et de traverser des milliers de kilomètres de collines et de ravins pierreux qui séparent de la Colonie du Cap la région productrice du diamant. On pense avec raison qu'il est bien plus simple de gagner immédiatement la région des plateaux en partant de la baie de Lourenço Marques.

D'un autre côté, les Boers de la République de Transvaal avec le même besoin que celui qu'ont les Monténégrins d'avoir un port dans l'Adriatique, préfèrent se mettre d'accord avec la nation Portugaise pour faire l'importation et l'exportation par cette baie, et abandonner les ports du Cap et de la Colonie du Natal, à cause de leur éloignement et afin que leur commerce ne passe pas forcément, comme cela a eu lieu jusqu'à présent, par les mains des Anglais qui, disent-ils, les menacent d'annexion.

Conclusions de ce chapitre :—

1. La baie de Lourenço Marques constitue l'extrémité sud des possessions Portugaises dans l'Afrique Orientale.
2. Elle est la meilleure et la plus importante baie de cette région.
3. L'entrée en est formée, par deux pointes : celle du *Manhiça*, au nord, et celle de l'*Unhaca*, au sud.
4. Trois fleuves importants s'y jettent : le *Manhiça*, au nord ; le *Mapouto*, au sud, et le *Saint-Esprit*, au centre.
5. Sur la rive nord, et à l'embouchure de ce dernier, qui est l'estuaire de trois rivières qui y affluent (le *Tembe*, le *Matolla*, et le *Lourenço Marques*), sont situés la ville et le fort de Lourenço Marques.

Chapitre II.—*Découverte et Exploration de la Baie.*

La baie de Lourenço Marques fut *découverte* au commencement du seizième siècle par les Portugais qui lui donnèrent le nom de baie de *Lagoa*. Elle prit ensuite celui de Lourenço Marques, du premier d'entre eux qui l'*explora* régulièrement et y alla avec Antonio Caldeira pour établir le commerce quelques années après, en 1544.

Il faut distinguer les deux faits de la *découverte* et de l'*exploration*, pour ne pas attribuer à Lourenço Marques la découverte que d'autres Portugais en firent avant lui.³

La baie était *découverte* avant 1506. En 1505, le Roi don Emmanuel ordonna à

¹ Dépêche du Gouverneur de Lourenço Marques, portant la date du 18 Avril, 1863, et insérée dans la partie non-officielle des "Annales du Conseil des Colonies," 5e série, Août, 1864, p. 60.

² On peut lire sur cette matière les écrivains Portugais modernes, dont les noms suivent : Sebastião Xavier Botelho, "Memoria Estatistica sobre os Dominios Portuguezes," &c., Lisbonne, 1835, p. 82; Fr. Francisco de S. Luiz, "Indice Chronologico dos Descobrimentos dos Portuguezes," Lisbonne, 1841, p. 169; J. M. de Sousa Monteiro, "Diccionario Geographico," Lisbonne, 1850; C. J. Caldeira, "Viagem de Lisboa á China," &c., Lisbonne, 1852, tome ii, p. 138; Badalo, "Ensaio Estatistico," "Moçambique," Lisbonne, 1859; Lacerda, "Exame das Viagens de Livingstone," Lisbonne, 1867, p. 395; Onofre Lourenço de Andrade, "O Presidio de Lourenço Marques," Lisbonne, 1867, &c.

³ C'est pourquoi la plupart des écrivains, confondant les deux choses, attribuent la *découverte* à Lourenço Marques. Documents Nos. 1 à 4.

Cid Barbudo d'aller avec Pedro Quaresma examiner toute la côte depuis le Cap de Bonne-Espérance jusqu'à Sofala, afin d'avoir des nouvelles de Francisco de Albuquerque et de Pedro de Mendonça, que l'on disait avoir disparu entre ces deux points. L'expédition partit de Lisbonne le 19 Septembre. Un des points que ces navigateurs examinèrent fut la baie qui s'est appelée plus tard baie de Lourenço Marques et dont la pointe sud est formée par le Cap Sainte Marie. Ce fait est prouvé par la lettre écrite de Mozambique par Pedro Quaresma au Roi don Emmanuel, et datée du 31 Août 1506.¹

Dans ce document on parle de la baie comme d'une chose déjà découverte et connue : la découverte en doit donc avoir eu lieu entre le premier voyage de Vasco de Gama (1497) et l'année 1506.

La première exploration de la baie fut faite en 1544 par Lourenço Marques et Antonio Caldeira, qui allèrent y établir le commerce avec les indigènes.²

Don João de Castro partant pour l'Inde en 1545, écrivait au Roi don Jean III,³ en Juillet de cette même année, que Lourenço Marques avait commencé dans cette baie le commerce du cuivre et de l'ivoire. Dans sa réponse en date du 8 Mars 1546, le Roi lui ordonnait d'envoyer de nouveau Lourenço Marques à la baie, afin qu'il y établît définitivement le commerce des fleuves.⁴

Les services rendus dans cette commission et dans quelques autres par Lourenço Marques ayant été pris en considération, il reçut sa nomination à l'emploi de secrétaire de la factorerie de Cochîn dans l'Inde, par Lettre Royale du 11 Février 1557.⁵

Conclusions de ce chapitre :

1° En 1506 la baie de Lourenço Marques était découverte par les Portugais.

2° En 1554 elle fut explorée pour la première fois par les Portugais Lourenço Marques et Antonio Caldeira. Elle reçut du premier des ces navigateurs le nom sous lequel elle est encore connue de nos jours.

3° En récompense des services qu'il rendit dans cette commission et dans d'autres commissions importantes, en établissant nos relations avec les indigènes, Lourenço Marques fut nommé, le 11 Février 1557, secrétaire de la factorerie de Cochîn.

Chapitre III.—Dénomination de la Baie.

A sa découverte la baie fut connue sous le nom de baie de *Lagoa*. C'est sous ce nom qu'elle figurait sur les cartes Portugaises du commencement du seizième siècle, comme le rapportait Manuel de Mesquita Perestrello en 1554.⁶

Elle est indiquée sous ce nom de *Lagoa*, sur la carte de Diego Ribero de 1529, qui est à la bibliothèque de Weimar,⁷ sur celle de Diogo Homem, de 1558, qui existe au Musée Britannique, et sur le globe terrestre de Francfort de la première moitié du seizième siècle (*a bahia de Lagoa*).⁸

Cette désignation de *baie de Lagoa* avait pour origine la persuasion où étaient les Portugais, persuasion fondée sur les rapports des indigènes, que les fleuves de *Lagoa* et *Manhiça* prenaient leur source (comme le Nil) dans un grand lac de l'intérieur.⁹

Après l'exploration de Lourenço Marques, en 1544, la baie resta connue sous le nom de *baie de Lourenço Marques*, le fleuve de *Lagoa* sous celui de *Saint-Esprit*, et un des fleuves qui se jettent dans cet estuaire avec le *Matolla* et le *Tembe*, sous celui de *Lourenço Marques*.

Ainsi le nom de *Delagoa Bay*, donné par les Anglais à la baie après la visite que le Capitaine Owen y fit en 1822, n'est pas même nouveau : c'est la reproduction Anglaise des mots Portugais *bahai de Lagoa*, nom qui la désignait primitivement et avant l'exploration Portugaise de 1544.

Aucun doute ne peut subsister au sujet de ce nom de *Lourenço Marques* qui, depuis cette époque, désigne la baie, quoi que les Anglais prétendent aujourd'hui qu'il ne désigne pas *Delagoa Bay*, mais simplement l'anse ou petite baie formée par le fleuve *Saint Esprit* (English River) en face de l'établissement Portugais.

Dans la crainte d'élargir outre mesure le cadre de ce mémoire, parmi les nom-

¹ Cette lettre du Roi Don Emmanuel forme le Document No. 5.

² Documents Nos. 2, 4, et 6.

³ Document No. 6.

⁴ Document No. 7.

⁵ Document No. 8.

⁶ Voir sa description de la baie dans l'Appendice No. 1.

⁷ Dans "l'Atlas composé des Cartes des quatrième, quinzième, seizième, et dix-septième Siècles," du Vicomte de Santarem, Paris, 1841.

⁸ Dans la collection de Jomard, "Les Monuments de la Géographie," Paris.

⁹ Les Anglais l'avoient eux-mêmes. Voir Cooley, "Inner Africa laid Open," London, 1852, pp. 135 et suivantes.

breux documents que nous pourrions fournir, nous n'en prendrons que quelques uns à partir du seizième siècle, que nous citons à l'appui de notre assertion.

Seizième siècle.—La baie est désignée sous ce nom :

1° Dans le routier de Perestrello, fait en 1575 et dont nous nous occupons dans le chapitre suivant.

2° Sur la carte d'Afrique de Filippo Pigafetta, dédiée à l'évêque de S. Marc, Antonio Migliori, et gravée à Rome en 1590 ; la *Baie de Lourenço Marques*, ainsi que le flueve du *Saint-Esprit*, y sont indiqués sous le nom Portugais :—*Marques, Rio de S. Espirito*.

Dix-septième siècle.—La baie figure sous la même dénomination :—

1° Dans le "Nuevo Atlas ó teatro de todo el mundo en el cual se contienen los mapas y descripciones," etc., de Juan Janssonio, publié à Amsterdam en 1653.¹

2° Dans le "Occidentalium tractus Indiarum orientalium a Promontorio Bonae Spei ad C. Comorin," publié par Frédéric Witt à Amsterdam.²

3° Sur la carte de l'Inde depuis le Cap de Bonne Espérance, publiée à Amsterdam en 1680 par Joannes van Keulen (*Lourenço Marques*).³

Dix-huitième siècle.—Au dix-huitième siècle elle est indiquée sous le même nom :

1. Dans l'atlas de Lonchamps et Janvier, gravé par Chambon et publié à Paris en 1754—(*B. de Laurent Marques*).⁴

2. Sur la carte d'Afrique de Robert Vaugondy, Paris 1756—(*B. de Laurent Marques*).

3. Dans l'atlas maritime de Bellin, publié à Paris en 1764—(*B. de Lourenço Marques*).⁵

4. Sur la "Carte reduite de l'Océan oriental depuis le Cap de B. Espérance," de Manneville, Paris, 1775—(*B. de Laurent Marques*).

5. Dans la "Géographie moderne," de l'Abbé Clouet (carte d'Afrique). Paris, 1780—(*Baye de Lourenço Marques*).

6. Dans "l'Atlas Universel," par Saint Janvier, publié à Venise en 1784. "Baye de Laurent Marques ou du Saint-Esprit où est le fort Inhaque aux Portugais et où commence leur gouvernement de Mozambique."

7. Sur la carte générale d'Afrique de Hérissou en 1795.—(*Baie de Laurent Marques*).⁶

8. Dans "l'Atlas Universel," de Mentelle et Chanlaire, publié à Paris en l'an vi de la République (1798).—(*B. de Laurent Marques*).⁷

Et non-seulement sur les cartes Françaises, mais encore sur les cartes Anglaises, savoir :

9. Sur celle de Robert Sayer, publiée à Londres en 1792.—(*B. de Lourenço Marques*).⁸

10. Sur la carte de Thomas Bowen dans le livre "A modern, authentic, and complet system of universal geography," publié à Londres.

Dix-neuvième siècle.—Pendant ce siècle la baie porte encore le nom de *Lourenço Marques* que lui donnent les Anglais eux-mêmes.

1. Sur le "Mapa de Africa" publié en 1801 par don Juan Lopez, géographe du Roi (*Bahia de Lourenço Marques*).

2. Dans l'Article 2 de la Convention du 28 Juillet 1817, entre le Portugal et la Grande-Bretagne, additionnelle au Traité du 22 Juillet 1815.—(*Bay of Lourenço Marques*).

3. Sur la carte de la baie dressée en 1822 par le Capitaine Owen lui-même par ordre de l'Amirauté, et publiée en 1827.—(*Delagoa Bay or Lourenço Marques*).

4. Sur la carte d'Afrique d'Arrowsmith, de l'édition de 1841.—(*Delagoa Bay or Lourenço Marques*).

5. Sur celle de James Wild de 1846.—(*Bay Delagoa or Lourenço Marques*).

6. Dans les éditions, postérieures à 1854, de la carte de la côte orientale d'Afrique, dressée par le même Capitaine Owen, et publiée en 1828 par ordre de l'Amirauté Anglaise—(*Delagoa Bay, formerly Lourenço Marques*).

¹ Carte No. 143.

² Tome ii, fol. 157, sur la carte intitulée "Æthiopia Inferior vel Exterior."

³ Elle se trouve dans le livre intitulé "La Nueva y Relumbrante Antorcha de la Mar," de Nicolas Jansy Voogt, publié à Amsterdam.

⁴ "L'Afrique divisée en tous ses Etats, dressée sur de Nouveaux Mémoires, chez les Sieurs Longchamps et Janvier, Géographes, avec Approbation et Privilège du Roi, gravée par Chambon," Paris, 1754.

⁵ "Le Petit Atlas Maritime, recueil de Cartes, &c., par ordre de M. le Duc de Choiseul, par Bellin, Ingénieur de la Marine," Paris, 1764, tome iii, No. 115.

⁶ "Carte Générale de l'Afrique divisée en plusieurs Royaumes dressée par Hérissou, Ancien Ingénieur Hydrographe de la Marine," Paris, 1795 et 1821.

⁷ "Atlas Universel de Géographie," par E. Mentelle et P. G. Chanlaire, Paris, an vi, pl. 150.

⁸ "A New Chart of the World on Wright's or Mercator's Projection."

7. Dans les instructions nautiques d'Anglais James Horsbourg.—(*La Baie Delagoa, à laquelle on donne aussi le nom de Lourenço Marques qui l'a découverte, etc.*)¹

8. Dans "l'African Pilot" du Capitaine Horsey.—(*Delagoa Bay was formerly called Lourenço Marques after his discovery.*)²

9. Dans l'Atlas de Malte-Brun, de l'édition de Bruxelles de 1839.—(*B. de Lourenço Marques*).³

10. Enfin, et sans faire mention d'autres documents, dans le "Dictionnaire général de Biographie et de Histoire" Dézobry et Bachelet⁴—(*Lourenço Marques, fleuve de l'Afrique orientale dans la baie de ce nom, dite aussi Baie Delagoa . . . vers 26° latitude sud.*)

Au commencement du seizième siècle, nous avons aussi changé le nom du fleuve de *Lagoa* en celui de fleuve *Saint-Esprit*. Il suffira, pour s'en convaincre, de comparer entre eux les ouvrages géographiques de ce siècle :

1. Le "Mappa Mundi" sur parchemin, fait en 1542 par ordre de François I, Roi de France, et généralement attribué à Henri II.—(*Rio de Alagoa*).⁵

2. Le "Mappa Mundi" de Sébastien Cabot, Pilote-Major de Charles V, de 1544.—(*Rio de Lagoa*).

3. Le "Mappa Mundi" de Gérard Mercator (Duisbourg, 1569), où on lit—*Rio di Lago (a) primum, nunc R. del Spirito Santo*.

4. "L'Africae Tabula Nova" publié à Anvers en 1570, et reproduite en 1602 dans le "Theatrum orbis terrarum" d'Abraham Ortel, édition d'Anvers, de J. Baptiste Vrontius, où on lit—*R. di Spirito Santo—Lagoa fl.*

5. La "Carte d'Afrique" de Philippo Pagafetta, de 1590, déjà citée—(*Rio de S. Spirito*).

Le fleuve porte encore la même désignation sur les cartes du dix-septième siècle, entre autres sur celle de Antonio Sanches de 1623, qui se trouve au Musée Britannique de Londres—(*Rio de S. Spirito*).⁶

Le fleuve du *Saint-Esprit* est désigné de la même manière dans les ouvrages du dix-huitième siècle, parmi lesquels il suffira d'indiquer :

En 1704, "L'Afrique selon les Relations les plus Nouvelles, dressée sur les Mémoires du Sieur de Tillemont."—(*Rio del Spirito Santo*).⁷

En 1718, "L'Atlas Historique avec Dissertations," par M. de Guedeville, publié à Amsterdam (tome 1^{er}).

En 1722, "L'Afrique dressée selon les dernières Relations," par N. de Fer, Géographe de Sa Majesté Catholique, publié à Paris—(*Rivière du Saint Esprit*).

En 1727, "La Carte de l'Ethiopie Orientale," de d'Anville, Géographe Ordinaire du Roi, publiée à Paris.—(*Rivière du Saint-Esprit*.)

En 1752, "L'Atlas de l'Anglais Emmanuel Bowen," Géographe Ordinaire du Roi, publié à Londres—(*Rio del Spirito Santo*).⁸

Et enfin le "Map of Africa," de Herman Moll, dédié à Charles, Comte de Petre-borrow et Monmouth (*Saint Esprit or Delagoa R.*)

Conclusions et résumé de ce chapitre :—

1. La Baie de Lourenço Marques, découverte par les Portugais avant 1506, a porté le nom de *Baie da Lagoa*, sous lequel on la désignait dans les ouvrages géographiques du seizième siècle.

2. Après avoir été explorée par le Portugais Lourenço Marques en 1544, elle fut désignée sous ce nom dans les documents géographiques, depuis la seconde moitié du seizième siècle jusqu'au dix-neuvième siècle :

3. En 1822, le Capitaine Owen et les Anglais qui l'ont imité commencèrent à donner à la baie le nom de *Delagoa Bay*, reconnaissant toutefois eux-mêmes que son nom avait été jusqu'alors *Baie de Lourenço Marques*.

4. Le nom de *Delagoa Bay* n'est pas même nouveau. C'est la reproduction Anglaise de *Baie de Lagoa*, mots par lesquels elle a été primitivement désignée par les Portugais au commencement du seizième siècle, avant l'exploration de Lourenço Marques.

¹ "Instructions Nautiques," 1ère Partie, traduction de la Predour, Darondeau, et Reille, 3ème édition, revue sur la 7ème édition Anglaise, par M. J. Lafont, Capitaine de Frégate, Paris, 1861, tome i, p. 365.

² "The African Pilot for the South and East Coasts of Africa, from the Cape of Good Hope to Cape Guardafui," by Captain Algernon F. R. de Horsey, London, 1864, p. 88.

³ "Atlas Complet du Précis de la Géographie, &c., revue par Huot," Bruxelles, 1839.

⁴ Paris, 1863, 3ème édition, tome ii, au mot "Lorenzo Marques."

⁵ Ainsi que celui de Cabot dans la Collection de Jomard.

⁶ Le fac-simile de cette carte a été publié dans l'ouvrage de Don José de Lacerda, "Exame das Viagens do Dr. Livingstone," Lisbonne, 1866.

⁷ Paris, 1704, chez J. D. Nolin.

⁸ "Complete Atlas of Distinct Views of the Known World," Londres, 1752, planche 47

5. Il y a par conséquent, *identité parfaite* entre la *Delagoa Bay* des Anglais et la *Baie de Lourenço Marques* des Portugais.

6. Le fleuve *Saint-Esprit* (auquel les Anglais donnent le nom de *English River* sur leurs cartes, à partir de 1822) est le même qui, au commencement du seizième siècle, portait, ainsi que la baie, le nom de *fleuve de Lagoa*.

Chapitre IV.—*Explorations maritimes et terrestres depuis le Cap de Bonne-Espérance jusqu'à la Baie de Lourenço Marques.*

Ce n'était pas uniquement la soif des conquêtes qui nous portait à établir notre domination dans les régions lointaines de l'Afrique Australe. Mûs directement par l'intérêt du commerce, de la géographie et de l'hydrographie ou poussés indirectement par la force des circonstances, nous effectuâmes au seizième siècle non-seulement l'exploration *maritime* de la baie, mais encore l'exploration *par terre* et dans l'intérieur de la Cafrerie, du cap et de la côte du Natal jusqu'à Lourenço Marques, comme nous allons le démontrer. Nous n'ignorons pas que le récit de ces voyages d'exploration est superflu pour les besoins de notre cause, nous tenons cependant à le faire, ne fût-ce que pour détruire les prétentions des Anglais qui désirent même priver notre nation de la gloire qui peut lui en revenir.

Section 1.—*Explorations Maritimes.*

Voici quelles ont été nos principales explorations maritimes de la "Baie de Lourenço Marques" au seizième siècle.

1. La première exploration fut faite en 1506 d'après les ordres que le Roi don Emmanuel donna, en 1505, à Cyde Barbudo et à Pedro Quaresma, lors de leur expédition à la recherche de Francisco de Albuquerque et de Pedro de Mendonza, que l'on croyait perdus entre le Cap de Bonne-Espérance et Sofala. Toute la côte comprise entre ces deux points fut explorée, et plus spécialement la Baie de Lourenço Marques. Ainsi que nous l'avons fait remarquer au chapitre II, le compte-rendu de ce voyage fut envoyé de Mozambique au Roi don Emmanuel par Pedro Quaresma le 31 Août 1506.¹

2. La seconde eut lieu en 1527, lorsque Diogo Botelho Pereira reçut l'ordre de parcourir la côte du Cap de Bonne-Espérance jusqu'au Cap des Courants à la recherche de Luiz de Menezes, disparu deux ans auparavant, à son retour de l'Inde.²

3. La troisième fut celle de Lourenço Marques en 1544. Nous en avons déjà fait mention au sujet de la découverte et de l'exploration de la Baie (chapitre II).

4. La quatrième eut lieu en 1575, par ordre du Roi don Sébastien, qui chargea Manuel de Mesquita Perestrello de reconnaître la côte de l'Afrique australe depuis le Cap de Bonne-Espérance jusqu'au Cap des Courants.

A la suite de ce voyage pendant lequel il étudia la Baie de Lourenço Marques (où d'ailleurs il avait déjà été en 1554) Perestrello écrivit une notice³ dans laquelle les latitudes et les directions des principaux points sont désignées avec une exactitude d'autant plus remarquable qu'à cette époque il ne pouvait s'aider des instruments perfectionnés dont nous disposons aujourd'hui. Aussi son travail fut-il regardé comme digne d'être traduit et inséré par Manneville dans le "Neptune Oriental."⁴

5. La cinquième fut accomplie avant 1598 par Aleixo da Motta, cosmographe de la ligne des Indes, qui visita et étudia la baie, comme on le voit dans son "Roteiro da Navegação da India," ouvrage pour lequel il s'aide du travail de Perestrello et qui fut traduit en Français et publié à Paris en 1664 par Thévenot, dans la deuxième partie de ses "Relations de divers voyages curieux."

A la suite de ces explorations, on dressa, dès le commencement du seizième siècle, des cartes maritimes et géographiques, telles que la "Carta Universal" de 1527 et la carte de Diego Ribero de 1529, qui existe à la bibliothèque de Weimer, ainsi que d'autres

¹ Il est fait mention de ce voyage par Damião de Goes, "Chronica de El-Rei Don Manuel," 2e partie, chap. 9, par João de Barros, "Decadas," 1ère décade, livre 10, chap. 6; et par Quintella, "Annaes de Marinha Portuguesa," tome i, p. 289.—Document No. 5.

² Diogo de Couto, "Decadas da India," 4ème décade, livre 6, chap. 1.

³ Ce routier a été imprimé pour la première fois dans "l'Arte Pratica de Navegar" de Luiz Serrão Pimentel, Lisbonne, 1681, p. 394 et suivantes. Il existe en manuscrit dans les Bibliothèques de Porto et d'Evora. Suivant l'opinion de Rivara, l'exemplaire qui se trouve dans cette dernière, et qui est accompagné de cartes enluminées, serait le manuscrit original de Perestrello, "Catalogue des Manuscrits de la Bibliothèque Publique d'Evora," Lisbonne, 1850, p. 4.

⁴ Roteiro da Viagem de Vasco da Gama en 1497," 2ème édition, corrigée et augmentée de quelques observations, &c., par A. Herculanio et le Baron de Castello de Paiva, Lisbonne, 1861, p. 145.

déjà citées au chapitre III, Perestrello fait mention de ces cartes dans son compte rendu du naufrage de 1552, dont nous parlons plus loin.

Section 2.—*Explorations en Cafrerie, depuis le Cap jusqu'à la Baie de Lourenço Marques.*

Voici quelles furent les principales explorations faites par les Portugais dans l'intérieur de la Cafrerie depuis le Cap et la côte du Natal jusqu'à la baie de Lourenço Marques.

1. La première date de 1552. Le galion "Saint-Jean," revenant de l'Inde, se perdit le 24 Juin de cette année sur la côte du Natal sous le 31 degré de latitude sud. L'équipage et les passagers échappèrent au naufrage. Ils partirent le 7 Juillet, traversèrent la Cafrerie, et, bravant de nombreux dangers, ils parvinrent, au bout de trois mois, à la baie de Lourenço Marques, où le célèbre Manuel de Sousa de Sepulveda périt avec sa femme en traversant le territoire situé entre le fleuve du *Saint-Esprit* et le *Manhiça*.

Alvaro Fernandes, contre-maître de ce galion, a laissé de cette expédition en Cafrerie (expédition composée de 500 personnes dont 380 périrent ou s'égarèrent), une notice importante intitulée: "Histoire de la très-notable perte du grand galion Saint-Jean, dans laquelle on raconte les innombrables travaux et les grands malheurs qu'éprouva le Capitaine Manuel de Sousa de Sepulveda, etc., lequel se perdit en l'année 1552, le 24 Juin, sur le territoire de Natal."¹

2. La seconde exploration eut lieu en 1554. Le vaisseau "Saint-Benoît," de la ligne des Indes, commandé par Fernão Alvares Cabral, se perdit, le 22 Avril, sur la côte de Natal, près du fleuve *Infante*. Les naufragés au nombre de 322 (98 Portugais et 224 esclaves) résolurent de continuer leur voyage par l'intérieur de la Cafrerie jusqu'à la baie de Lourenço Marques. Ils partirent le 29 et y arrivèrent le 7 Juillet, après 68 jours de marche. Manuel de Mesquita Perestrello, l'un des naufragés, a laissé de cette expédition, dans laquelle périrent 260 personnes, une curieuse relation que fut imprimée dix ans plus tard (Coimbre 1564) sous le titre: "Naufrage du vaisseau 'Saint-Benoît,' Capitaine Fernão Alvares Cabral, qui s'est perdu le 22 Avril, 1554, sur la côte du territoire de Natal, près du fleuve de l'Infante."²

3. La troisième fut effectuée en 1588 par l'équipage et les passagers du vaisseau "Saint-Thomas," de la même ligne, naufragé le 16 Mars, sur la côte des *Fumées* par 27° 20' de latitude, près du fleuve de *Simão Dote*. Cette expédition, dirigée par le commandant Estevão de Veiga, partit le 23 Mars et arriva à la baie le 10 Avril. Le chroniqueur de l'Inde, Diogo de Couto, en a laissé une relation curieuse et importante, qui a été publiée à Lisbonne en 1611: "Relation du naufrage du vaisseau 'Saint-Thomas,'"³

4. La quatrième fut faite en 1593 par l'équipage et les passagers du vaisseau "Saint-Albert," de la ligne des Indes, qui naufragea le 27 Mars sur le *Penedo das Fontes*. Ils patirent de ce point le 3 Avril, sous la conduite de Nuno Velho Pereira, et ils arrivèrent à la baie de Lourenço Marques le 27 Juin, après avoir parcouru près de 300 lieues en deux mois et vingt-quatre jours. Déduction faite des voyageurs morts pendant le trajet, l'expédition se composait, lors de son arrivée à la baie, de 182 personnes, dont 117 Portugais libres et 65 esclaves. João Baptista Lavanha, premier cosmographe du Roi, publia à Lisbonne, quatre ans après (1597), par ordre du Gouvernement Portugais et sous le titre de: "Naufrage du vaisseau 'Saint-Albert' et itinéraire de ceux qui purent se sauver," l'itinéraire ou journal de ce voyage, travail d'une haute importance, à cette époque, pour la géographie de l'Afrique australe.⁴ Malgré la mauvaise rédaction de ce travail, Ternaux-Compans en fit un analyse ou un extrait qu'il publia à Paris dans ses "Archives des voyages ou collection d'anciennes relations," etc.⁵

5. La cinquième exploration fut entreprise en 1623 par l'équipage et les passagers du vaisseau "Saint-Jean-Baptiste" qui, parti le 1^{er} Mars de Goa pour Lisbonne, sous les ordres de Pedro de Moraes Sarmento, naufragea le 1^{er} Septembre sur la côte de Natal, sous le 33° degré de latitude sud: de là les naufragés se dirigèrent par l'intérieur jusqu'à Sofala. L'expédition se composait de 279 personnes. Francisco Vaz de Almada en a publié à Lisbonne, en 1625, une notice intéressante intitulée: "Traité du désastre

¹ Le lieu et l'année de l'impression ne sont pas désignés; mais il existe des éditions postérieures de 1592, 1614, 1615, et 1633 indiquées par les bibliographes, ainsi que la réimpression dans le tome i de "l'Historia Tragico-Maritima," publiée par Bernardo Gomes de Brito pendant le dernier siècle, Lisbonne, 1735.

² Réimprimé dans "l'Historia Tragico-Maritima," tome i, p. 139 et suivantes.

³ Reproduite dans "l'Historia Tragico-Maritima," tome ii, p. 174 et suivantes.

⁴ Reproduite dans "l'Historia Tragico-Maritima," tome ii, p. 308 et suivantes.

⁵ Tome ii, p. 237 et suivantes.

survenu au vaisseau 'Saint-Jean-Baptiste,' et du voyage que les personnes qui se sauvèrent, firent depuis le 33^e degré au Cap de Bonne-Espérance où il fit naufrage," etc. Lisbonne, 1625.

6 La sixième fut faite en 1647 par les équipages des vaisseaux "Saint-Sacrement" et "Notre-Dame de Atalaya," qui naufragèrent près du Cap de Bonne-Espérance, en revenant de l'Inde. L'expédition, sous la direction du Capitaine-Major Luiz de Miranda Henriques, gagna, à travers les terres, la baie de Lourenço Marques.

Le récit de cette expédition fut publié à Lisbonne, trois ans après, par Bento Teixeira Feyo : "Relation du naufrage, au Cap de Bonne-Espérance, des vaisseaux Saint-Sacrement et Notre-Dame de Atalaya, revenant de l'Inde, et dont le Capitaine-Major était Louis de Miranda Henriques, en 1647." Lisbonne, 1650.

Il résulte de ce que nous venons d'exposer, que le voyage de Cowie et Green, colons Anglais, accompli par terre depuis le Cap de Bonne-Espérance jusqu'à la baie de Lourenço Marques au dix-neuvième siècle, et dont les détails se trouvent dans le "South African Advertiser," journal du Cap, de 1830, et dans le "Asiatic Journal," de Londres, de la même année, *n'est pas, comme les Anglais le prétendent, le premier voyage fait par terre entre ces deux points*, puisqu'il y avait déjà trois siècles que cette partie de la Cafrerie était explorée par nous. Il est à regretter que le célèbre écrivain Walekenaer ait affirmé une telle inexactitude dans sa "Collection des relations des voyages."¹

Conclusions de ce chapitre :—

1. Les Portugais ne se sont pas bornés à découvrir la baie de Lourenço Marques et à y établir (comme nous le verrons plus loin) leur domination et leur souveraineté. Dans l'intérêt de l'hydrographie et de la géographie, ils firent des explorations maritimes dans la baie et en entreprirent d'autres dans l'intérieur, depuis le Cap de Bonne-Espérance et la côte du Natal jusqu'à ce point.

2. Les principales explorations maritimes effectuées dans la baie pendant le seizième siècle, ont été au nombre de cinq, savoir : en 1506, 1527, 1544, 1575 et 1598.

3. Dès les premières années du seizième siècle, ces explorations eurent pour résultat le levé de cartes géographiques et maritimes, parmi lesquelles on compte la mappemonde ou carte universelle de Weimar, de 1527, la carte de Diego Ribero, de 1529, etc.

4. Du commencement du seizième siècle jusqu'à la moitié du dix-septième les principales explorations terrestres de la côte du Natal, par l'intérieur de la Cafrerie jusqu'à la baie, ont été au nombre de six : en 1552, 1554, 1588, 1593, 1623, et 1647.

5. Ainsi qu'il résulte des comptes rendus respectifs, ces explorations terrestres ont suivi deux lignes, l'une plus à l'ouest près de la côte (ce furent les premières, et l'autre plus à l'intérieur (ce furent les dernières).

6. C'est donc à tort que les Anglais prétendent que le voyage de Cowie et Green, colons Anglais, accompli pendant ce siècle à la baie de Lourenço Marques, ait été le *premier voyage fait par terre entre ces deux points*.

Chapitre V.—Description de l'établissement de Lourenço Marques et des territoires que lui sont soumis

Section I.—Du district de Lourenço Marques, de son étendue et de ses limites.

Lourenço Marques est un des sept districts ou divisions de la province de Mozambique.

Il embrasse la côte depuis le 26° 3' de latitude sud jusqu'au district d'Inhambane, en touchant au cap des Courants par 24° 7' de latitude sud, sur un parcours de 68 lieues, et s'étend dans l'intérieur jusqu'au territoire de la République du Transvaal.

Lourenço Marques est borné à l'est par la mer, au nord par le district d'Inhambane, au sud et à l'ouest par une ligne qui, tirée du 26° 30' de latitude sud, court directement vers l'ouest jusqu'aux montagnes de Lebombo ou de Musuate, suit leurs sommets jusqu'aux rives de l'Incomati, de là se dirige au nord nord-est jusqu'au mont Pokioenieskop au nord de la rivière des Eléphants, va vers le nord nord-ouest jusqu'à la montagne de Chicundo, où se trouve le confluent du Matjatsies et de l'Umbovo, et enfin continue directement jusqu'à la jonction des rivières Paforis et Limpopo.

Telle est la ligne des limites au sud et à l'ouest établie entre le Gouvernement Portugais et la République des Boers par le Traité du 29 Juillet 1869.²

¹ Tome xxi, Paris, 1842.

² Document No. 9.

Outre la ville et le fort de Lourenço Marques, le district possède, dans l'intérieur, la colonie de Saint-Louis, dont nous nous occuperons dans la section 14.

Section 2.—De la ville, chef-lieu du district.

La ville, chef-lieu du district de Lourenço Marques, est située par 25° 58' de latitude sud et 41° 35' de longitude est du méridien de Lisbonne, sur la rive gauche du Saint-Esprit (*English River*) à un mille et un tiers de *Ponta alta de Mafoumo* ou *Ponta Vermelha* qui, à l'embouchure du fleuve, s'élève de 200 pieds au-dessus du niveau de la mer.¹

Nous parlerons plus loin de l'origine de l'établissement et des différentes modifications qu'a subies cette ville placée sous le patronage de Notre-Dame de la Conception.

La forteresse fut restaurée en 1864; on y construisit une caserne, une infirmerie, une pharmacie, une cuisine et des logements pour les officiers et les sergents. A l'extérieur on éleva un rempart garni de huit pièces d'artillerie, une poudrière et un magasin pour abriter les objets appartenant à l'Etat;² plus tard, en 1867, sous l'administration du Capitaine d'Artillerie Frederico Augusto Gourgell, alors Gouverneur du district, une nouvelle ligne de défense fut construite. Cet ouvrage, commencé le 1^{er} Avril et achevé le 31 Octobre de la même année, se compose de quatre batteries ainsi nommées: 31 *Juillet*, *Saint-Pierre*, *Saint-Antoine* et *Saint-Jean*.

La ville est coupée par différentes rues tirées au cordeau, bordées de plus de soixante-dix maisons en pierre, de plus de quarante autres en pierre et terre glaise, garnies de terrasses, et de quelques rares constructions en bois.

L'établissement possède deux fontaines d'une eau excellente, l'une placée près de la plage, au sud de la ville et servant d'aiguade aux navires, l'autre placée hors de la ville; outre ces fontaines, l'établissement a encore l'eau du lac qui sert aux besoins des habitants.

Au-delà de la seconde fontaine, dans un lieu désert nommé *Mochamba*, on donnait la sépulture aux Chrétiens; mais en 1864 on construisit un cimetière plus convenable.³

Section 3.—Climat et température.

Dans cette contrée, l'année se partage en deux saisons: l'été ou saison des pluies, qui dure de Septembre à Mars, et l'hiver, d'Avril à Septembre. Le baromètre s'élève lorsque soufflent les vents du sud, et tombe sous l'influence des vents du nord.

Quoique situé sous une zone tempérée, le district de Lourenço Marques est plus insalubre que l'île de Ibo (*Cap Delgado*) qui se trouve sous le 12° 30'. Depuis 1837, il y règne une sorte d'angine pernicieuse, gangréneuse ou putride, nommée *matuniza* ou *mapute* en langue indigène, qui est devenue endémique et contre laquelle les nègres emploient un vomitif préparé avec de l'écorce de *xibaca*, ce qu'ils prétendent être un remède souverain.⁴

Le Gouverneur Caetano da Costa Mattoso écrivait, dans sa dépêche officielle du 23 Juin, 1828, à l'égard de la situation du fort: "Cette place est située dans un terrain bas dominé par des montagnes et entouré de marécages permanents qui rendent précaire le sort des habitants sujets à des fièvres continuelles et trop souvent mortelles, ou à des maladies qui les empêchent de se rendre utiles à la nation: et cependant il existe, en face et sur la rive droite du fleuve, un emplacement plus sain, plus élevé, facile à défendre et possédant de l'eau et des terres excellentes pour la culture."

Section 4.—Population.

La population Portugaise de l'établissement a successivement augmenté; pour s'en convaincre il suffira de remarquer qu'après être restée longtemps stationnaire, elle a subi dans ces dix dernières années, de 1862 à 1872, l'accroissement constant que résume cette note:

¹ Horsey, "African Pilot," p. 93.

² Dépêche Officielle du Gouverneur, du 20 Août, 1864, dans le "Bulletin de la Province," No. 41, p. 217.

³ Dépêche officielle du chirurgien de l'armée José Antonio de Miranda, du 7 Avril, 1863, dans le "Bulletin," No. 21 de cette année, p. 93; dépêches officielles du Gouverneur du district, du 20 Août, 1864, dans le "Bulletin," No. 41, et du 15 Avril, dans le "Bulletin," No. 21.

⁴ Bordalo, p. 64 et suivantes; Jacques de Sallis de Celerina, "Esboço sobre as Molestias da Costa Oriental de Africa" dans les "Annaes Maritimos et Coloniaes," 6e série, p. 43 et suivantes.

1862	..	..	..	..	..	..	1,081
1863	..	..	..	..	..	..	—
1864	..	..	..	..	..	..	1,098
1872 ¹	..	..	..	..	..	..	2,670

Le nombre des esclaves enregistrés dans ce district en vertu du Décret du 14 Décembre 1854 était de 207 à la date du 20 Mai 1865. Aujourd'hui il n'y a plus d'esclaves, l'esclavage étant aboli dans toutes les colonies Portugaises.

Section 5.—*Peuples soumis à notre domination.*

Outre les indigènes qui vivent dans la ville et le fort, quelques peuplades dépendent du district. Ce sont, au nord et au nord-est, celles des régules ou chefs Mafoumo (dont les terres entourent le fort), Pamana, Mahota, Magaia et Cherinda ; à l'ouest celle du chef Matola ; au sud-ouest celle du Catembe ou Tembe, et au sud celle de Mapouto.

Les premières (au nord et au nord-est) payent à l'Etat, suivant la production des terres, un certain nombre de *panjas* (mesures) de provisions qui servent au soutien des nègres qui travaillent sur le port et dans le fort, ou qui garnissent les chaloupes de l'Etat.

Les seconds (au sud et au sud-ouest) donnent, comme tribut, de l'ivoire, des cornes de rhinocéros et quelquefois du bétail.

Section 6.—*Agriculture.*

Le terrain qui entoure le fort de *Lourenço Marques*, déjà hors du tropique, produit un grand nombre des fruits de l'Europe, aussi savoureux que ceux du Portugal, entr'autres des melons et des pastèques.

Quant à la vigne, si on la cultivait sur toute la côte du sud, elle donnerait indubitablement des résultats identiques à ceux que l'on admire au Cap de Bonne-Espérance.²

Au bas de la montagne, au nord du fort et au delà du lac, on trouve quelques vergers (*machambas*) de peu de valeur et qui sont cultivés par leurs propriétaires.

Mafoumo, Mahota, Pamana, Magaia, Cherinda et Mouamba, au nord et à l'est Catembe, Unhaca, Mapouto et Empanhel, au sud, sont les points de tout le district où l'agriculture est le plus répandue. De là nous viennent différentes denrées telles que le riz, le maïs, le millet, le manioc, les haricots, l'archide ou pistache de terre, les légumes, la citrouille, etc.

L'état de l'agriculture (écrivait en 1865 au Gouverneur Général le Capitaine Antonio de Sousa Teixeira, Gouverneur par intérim),³ est languissant, attendu que les nègres de ce district s'occupent presque exclusivement de la chasse à l'éléphant et laissent aux femmes le soin de cultiver la terre ; c'est pourquoi les denrées de provenance indigène se trouvent à un prix exorbitant ; chaque *panja* coûte 960 réis ; le riz est fort rare et se vend à 920 réis la *panja* ; quant au manioc, on ne le cultive qu'en très-petite quantité.

Section 7.—*Commerce.*

A Lourenço Marques, comme dans toute l'Afrique, le commerce fut, longtemps et sous différentes formes, un monopole de l'Etat. Un Edit du 10 Juin 1755 le rendit libre pour les nationaux, à l'exception pourtant du commerce de la verroterie, qui ne fut déclaré libre à son tour que par l'Edit du 7 Mai 1761.⁴ Enfin le commerce ne fut ouvert aux étrangers, sauf les exceptions des Traités, que par le Décret du 17 Octobre 1853.

Aujourd'hui, le commerce national et le commerce étranger du district ont acquis une certaine importance.

Parmi les principales maisons commerciales établies actuellement à Lourenço Marques, on distingue celle des Portugais Paiva Raposo, Diocleciano Fernandes das Neves, et Nandim de Carvalho & Compagnie, les maisons Françaises de Fabre et Fils, et Régis Ainé de Marseille ; les établissements des Indiens Antonio Gabriel de Gouveia, Manuel Francisco de Sousa et José de Sant'Anna da Gama ; les maisons des Maures Ibramo Dahud, Mussá Agy Ibramo et Ismael Nur ; celles des Banians Vachicande Premichande, Jugul das Dubob, Ceragy Cadiri, Navangy Sauchande, Givá Carvâ, Curugy Daugy, Othmechand Lakmechand, Juguldas Verichande et autres.

¹ Vicomte de Paiva Manso, "Memoria sobre Lourenço Marques," Lisbonne, 1870, p. 20.

² Bord alo, p. 280.

³ "Boletim e Annaes do Conselho Ultramarino," 7e série, No. 12, partie non officielle, p. 98.

⁴ Sur les différentes formes de ce commerce, voir l'importante note de M. Rivara dans le "Bulletin du Gouvernement de l'Inde" de 1864, p. 706 et suivantes.

Le commerce avec l'intérieur se fait au moyen d'échange de marchandises telles que les cotonnades, les toiles de la côte, les foulards teints et imprimés, la poudre, les armes, la verroterie, l'eau-de-vie, les pioches, le cuivre, l'étain, le plomb, &c.

Les marchandises que l'on reçoit en échange sont l'ivoire¹ d'éléphant et d'hippopotame, les cornes de rhinocéros femelle, les cuirs d'animaux tels que le bœuf, le buffle, le zèbre; les peaux d'*angonha* de *nungo*, &c.

On exporte aussi pour Port-Natal du maïs, du riz, des *angulas* ou paniers tressés, et des peaux de singe (*cimba*) et de chat sauvage. Plusieurs navires appartenant à la place de Lisbonne sont affectés au commerce Portugais de Lourenço Marques, ce sont : les trois mâts "Penha Longa" et "Novo Paquete," de Thomas Maria Bessone; "Tejo," de Antonio Joaquim de Oliveira; "Josephina," de Manuel José Dias Monteiror. Des navires de Mozambique sont également employés à ce commerce, ce sont les bricks "Amizade," "Leticia," "Estrella de Damao," "Felicidade," "Vestal" et "Flor de Gôa."

Malgré le manque de communications rapides avec la métropole, les autres parties de la province de Mozambique et les ports étrangers, le commerce de Lourenço Marques tend à se développer. Les droits de douane qui, dans l'année économique 1856-1857, montèrent à peine à 11:077 fr. produisirent dans l'année suivante, 1858-1859, 20:672 fr.² et 38:921 fr. dans l'année 1870-1871.³ La valeur des importations et des exportations qui, en 1866, avait été de 205:687 fr. s'éleva, en 1871, à 357:618 fr.

La réforme du tarif des douanes de Mozambique, décrétée le 12 Novembre, 1869, le Traité de Commerce avec les Boers et l'établissement inévitable d'une ligne régulière de bateaux à vapeur entre la métropole et la province de Mozambique, soit par le Canal de Suez, soit par le Cap, doivent aider le commerce à atteindre d'énormes proportions, surtout maintenant qu'est devenue bien évidente la tendance d'une partie du commerce de Port-Natal à se porter sur Lourenço Marques.

Section 8.—Monnaies, poids et mesures.

Toute la monnaie nationale du royaume, les monnaies Françaises et Anglaises d'or et d'argent, les onces Espagnoles et les aigles des Etats-Unis ont cours sur la place Lourenço Marques.

On se sert encore dans la colonie des anciens poids, *arroba*, *arratel*, et subdivisions, excepté à la douane, où l'on emploie déjà les nouveaux poids du système métrique.

Les mesures de solides et de liquides sont celles du royaume; toutefois la mesure de capacité des solides qui est le plus communément employée est la mesure du pays même, la *panja* et ses subdivisions. La *panja* correspond à un *alqueire* et trois quarts; elle se devise en *comegaes* et ceux-ci en demi-*comegaes* et en quarts.

Section 9.—Communications.

Lourenço Marques est en communication régulière avec la capitale de la province et les autres ports au moyen des navires de la place. Ces voyages se font de Lourenço Marques à la capitale pendant les moussons d'Avril et d'Août, et de la capitale à Lourenço Marques en Novembre et en Juin. Outre ces communications, un service régulier de courrier par voie de terre est établi entre la colonie, Inhambane et la République de Boers: de plus, une Ordonnance Ministérielle en date du 10 Mars, 1855, a décidé l'ouverture d'une route qui reliait cette République à Lourenço Marques et qui fût appropriée à l'usage des chars-wagons.

Cette amélioration n'a pas encore été réalisée; mais depuis le Traité entre le Portugal et la République des Boers, il existe un projet de chemin de fer qui devra lier Lourenço Marques avec Pretoria, capitale de cette République, chemin de fer très important, et au sujet duquel de récentes propositions ont été soumises au Gouvernement Portugais.

Section 10.—Gouvernement et Administration Générale.

Lourenço Marques constitue aujourd'hui un des districts de la province de Mozambique; comme les autres districts il est administré par un gouverneur spécial qui reçoit 1,000,000 réis de gratification, et dont la nomination émane du Gouverneur Général en vertu du Décret du 31 Octobre, 1838: toutefois quelques-uns de ces gouverneurs de

¹ C'est là une des branches les plus importantes du commerce. En 1852 on calculait que le poids de l'ivoire rendu chaque année à Mozambique n'était pas inférieur à 24,000 kilog.—C. J. Caldeira, tome 2e, p. 139.

² Bordalo, p. 282; "Bulletin," No. 50, du 10 Décembre, 1859.

³ "Bulletin de la Province de Mozambique," No. 33, du 17 Août, 1872.

district ont été, dans ces derniers temps, nommé directement par le Gouvernement de la métropole.

Section 11.—Administration des Finances.

Comme dans les autres districts de la province, l'administration des finances à Lourenço Marques est entre les mains d'un délégation de la Junte des Finances de Mozambique, composée du gouverneur avec présidence, d'un surintendant-trésorier et d'un greffier. La dépense faite est de 42,000 réis, appointements des deux fonctionnaires et de 20,000 réis d'expédition.

Déjà en 1787 on avait ordonné l'établissement d'une douane à Lourenço Marques, mais le gouverneur de Mozambique, Antoine Emmanuel de Mello e Castro,¹ négligea l'ordre donné et la douane ne fut créée qu'en vertu du Décret du 17 Octobre, 1853.

Le personnel de cette administration est ainsi composé :—

Un directeur, un secrétaire vérificateur, un trésorier, un portier, deux douaniers, un patron de barque et des rameurs.

La dépense totale de ce personnel se chiffre au budget par 1,192,000 réis.

Le tarif de douane aujourd'hui en vigueur et qui a remplacé celui du 18 Octobre, 1856, est le tarif décrété pour Mozambique le 12 Novembre, 1869.

Dans ce tarif le district de Lourenço Marques est spécialement favorisé, car depuis 1779 on reconnut la nécessité d'une différence profitable au district dans les droits de douane. Tandis que les autres ports du sud payaient 30 pour cent, Lourenço Marques ne fut astreint à payer que 8 pour cent, encore réduits à 6 en 1787 sous l'administration du gouverneur Antonio Manuel de Mello e Castro, en vertu des Ordonnances Royales du 5 et du 19 Avril, 1785, alors que fut faite une réduction de 25 pour cent sur tous les droits de douane.²

Section 12.—Administration Militaire et Administration de la Marine.

La force militaire se compose actuellement de 120 hommes du 3^{me} bataillon de chasseurs d'Inhambane, et fournit des détachements aux îles de Benguelene au nord, et de l'Unhaca au sud ; ce dernier détachement s'est néanmoins retiré en signe de la bonne foi du Gouvernement Portugais, à partir du moment où le différend avec l'Angleterre a été soumis à un arbitrage.³

Quant à l'administration de la marine, le district de Lourenço Marques dépend du capitaine du port de Mozambique, qui a les attributions d'intendant. Pour le service du port il y a un *patron major*, aux appointements de 24,000 réis.

Section 13.—Administration Ecclésiastique et Instruction.

Le district de Lourenço Marques forme une des paroisses de la prélature de Mozambique, sous l'invocation de Notre Dame des Remèdes, autrefois, comme celle de Sofala, à la charge des religieux de Saint Dominique.

Le service religieux coûte à l'État 220,000 réis pour le curé, et 24,000 réis pour le sacristain.

Sur le huit écoles de 1^{ère} classe qui appartiennent à la province de Mozambique par le Décret du 1^{er} Septembre, 1854, Lourenço Marques en possède une en vertu de l'Ordonnance Ministérielle du 14 Novembre, 1857, exécutée en 1860. Le 25 Avril, 1861,⁴ l'établissement de l'école a été approuvé par ordonnance du Ministère de la Marine ; déjà dès 1855, le gouverneur Vasco Guedes de Carvalho e Menezes, avait fait créer dans le district une école régimentaire. Le professeur d'instruction primaire reçoit 200,000 réis.

Section 14.—De la Colonie de Saint Louis.

En 1845 le régule Makaxulle vendit à Jean Albazini, Vice-Consul Portugais près la République du Transvaal, une portion de territoire placée à cinq jours de marche à l'intérieur de Lourenço Marques, au nord du parallèle du 26° sur les rives du Save. Ce territoire s'étend en largeur jusqu'à l'Incomate avec lequel il confine et se trouve à

¹ Bordalo, p. 123 et suivantes.

² "Bulletin Officiel de Mozambique," No. 2, du 10 Janvier, 1863.

³ La garnison était d soixante-quatre soldats, avec six canons en 1795.

⁴ Dans le premier quart de ce siècle la garnison se composait régulièrement de quarante hommes.—Balbi, "Variétés Politico-Étati-tiques sur la Monarchie Portugaise." Paris, 1822, p. 116.

⁵ Bordalo, p. 162.

⁶ Idem, p. 160.

moitié chemin entre la frontière de la République et notre établissement. Le 8 Avril, 1868, Jean Albazini en fit don au Gouvernement Portugais.

Ce citoyen, aidé par quelques Portugais habitant le district de Pretoria dans la République du Transvaal et par quelques familles Hollandaises, proposa au Gouverneur de Mozambique l'établissement, sur ces terrains, d'une colonie Portugaise.

Par Ordonnances du 25 et du 28 Mai, 1869, le Gouverneur autorisa cet établissement sous le titre de *Colonie de Saint-Louis*, en hommage au Roi de Portugal, et nomma Jean Albazini chef provisoire de cette colonie, avec toutes attributions administratives et judiciaires; un détachement de 50 hommes fut destiné à cette colonie.¹

Ce nouvel établissement, se trouvant, par sa position spéciale, le point forcé des communications commerciales des Boers avec Lourenço Marques, doit prendre un rapide développement.

Section 15.—Communications avec la République du Transvaal.

Trois voies principales de communication existent actuellement entre le district Portugais de Lourenço Marques et la République du Transvaal.

La première part d'Origstad, aujourd'hui presque abandonnée à cause de son insalubrité, descend les pentes de *Kathlamba* ou *Drakenberg*, suit le *Save* ou *Sabia*, croise le bas *Incomati* et vient aboutir au nord de la ville de Lourenço Marques. Ce chemin a une longueur de 200 milles; les chars à bœufs le parcourent en 10 ou 12 jours, toutefois il est moins facile que les deux autres, attendu qu'il traverse un plus grand espace de terrain infesté par la mouche *tsésé*.

La seconde de ces voies, qui présente un parcours de 100 milles, sort du district de *New-Scotland* par une gorge des montagnes de *Kathlamba*, quitte la rivière *Anzete* (*Umzuti*), prend à l'est en croisant les monts de *Lebombo* ou *Musuate*, et suit le *Catembe* jusqu'à la mer.

La troisième est la plus facile quoique n'étant pas la plus courte. Elle suit le bas *Anzete* ou *Mapouto* et vient aboutir à la baie. Sur ce chemin, comme sur le précédent, le terrain infesté par la mouche *tsésé* a fort peu d'étendue.

À l'égard de ces voies actuelles de communication, un rapport fort remarquable fut écrit en 1870 par Francisco da Costa Leal, secrétaire de la Commission Diplomatique Portugaise envoyée dans le Transvaal, et publié dans le "Bulletin de la Province de Mozambique."²

Conclusions de ce chapitre :

1. Lourenço Marques est un des districts qui composent la province de Mozambique; et s'étend sur une longueur de 68 lieues de côtes, comprenant la baie de ce nom, depuis le district d'Inhambane, au nord, touchant au Cap des Courants, jusqu'au 26° 30' de latitude sud.

2. La ville et le fort de Lourenço Marques, contenant une population Portugaise de 2,670 âmes, se trouvent sur la rive nord du fleuve du Saint-Esprit, par 25° 58" de latitude sud.

3. Dans ce district, important par son commerce intérieur et extérieur, se trouvent régulièrement établis le Gouvernement et l'Administration Générale, ainsi que les administrations des finances, de la guerre, de la marine, du culte et de l'instruction publique.

4. Sont soumises à la domination et à la souveraineté Portugaises, outre les populations indigènes du nord et du nord-est de la baie (à l'égard desquelles ne s'élève aucune contestation), celles de Tembe et de Mapouto au sud qui sont l'objet du conflit;

5. Nous avons occupé militairement, avec de l'artillerie et de l'infanterie, outre la forteresse, l'île de *Benguelene*, point nord de la baie.

6. Nous avons quitté l'île de l'*Unhaca*, point sud de la même baie, et nous en avons retiré nos forces militaires, afin de montrer le respect du Portugal pour l'arbitrage, depuis que nous avons proposé ce moyen de résoudre le différend.

Chapitre VI.—Développement matériel et moral du district.

Des écrivains Anglais malveillants envers le Portugal ou des individus auxquels les renseignements suffisants faisaient défaut, n'ont pas craint de porter des jugements erronés, et ont accusé la nation Portugaise de ne pas savoir mettre à profit les vastes ressources qu'offre le district de Lourenço Marques, donnant ainsi à entendre que,

¹ Documents Nos. 10 à 12.

² Nos. 47 et suivantes de 1870, et Nos. 19 et suivantes de 1871.

placée, entre des mains Anglaises, cette Colonie présenterait des résultats tout autres.¹

Quoique l'on ne puisse admettre que pour de semblables motifs une nation puisse être expropriée d'une partie de son territoire, et malgré que le différend existant avec l'Angleterre ne doive pas être résolu par des motifs d'intérêt, il convient néanmoins de ne pas laisser sans réponse des accusations aussi peu fondées, et de montrer, à l'aide des faits, que le Portugal a mis tous ses efforts à aider au développement du district de Lourenço Marques, matériellement et moralement, en rendant faciles les communications, en encourageant l'industrie et le commerce, et en soutenant l'instruction civile et religieuse.

Pour rendre faciles et multiplier les *communications*, le Portugal a établi un service postal régulier jusqu'à la République du Transvaal; il a ordonné le 10 Mars, 1855, la construction, entre cette République et Lourenço Marques, d'une route à l'usage des chars-wagons; il a enfin traité en 1869 de l'établissement d'un *tram-way*, projet auquel on a préféré celui de l'établissement d'un chemin de fer à l'égard duquel des propositions sont déjà soumises au Gouvernement Portugais et à celui de la République du Transvaal, affaire qui est encore à décider.

Pour encourager l'industrie, le Portugal a créé celle de la *pêche* en grand, ce qui est prouvé par l'établissement de la Compagnie Portugaise de la pêche à la baleine, fondée en 1817 grâce à l'initiative du Gouverneur de Mozambique, Cavalcante de Albuquerque, et à João Pereira de Sousa Caldas (assassiné peu après par les Cafres excités par une influence *étrangère*),² pêche pour laquelle on a fait venir des engins du nord de l'Amérique; il a donné une forte impulsion à la chasse de l'éléphant, industrie très importante pour le commerce de l'ivoire et qui a conduit les Portugais à étendre leurs explorations du côté sud de la baie jusqu'aux domaines de Panda, Roi des Zoulous, ainsi que nous le démontrerons dans la quatrième partie de ce mémoire; il a enfin livré à l'étude des hommes de la science et des industriels, dans le Musée Colonial de Lisbonne, les échantillons des richesses naturelles de cette importante contrée.

Quant au *commerce*, par Décret Royal du 13 Novembre, 1824, le Gouvernement a créé la Compagnie Commerciale à laquelle il a accordé pour 24 ans le privilège de tout le trafic de la baie, compagnie qui avait pour Directeur Vicente Thomás dos Santos, et à laquelle il concéda de nouveaux privilèges par Ordonnance Ministérielle du 27 Octobre, 1825. Quoique l'objet principal de cette compagnie fût le commerce, elle était encore créée dans un but de culture et de colonisation, car elle s'obligeait à soutenir 25 familles que le Gouvernement envoyait chaque année dans la Colonie.³

Le commerce de la baie ayant été ouvert aux étrangers en 1853, on publia un nouveau Tarif de douane qui a attiré dans la Colonie un grand nombre de négociants; des maisons Françaises importantes s'y trouvent établies et sont dans les meilleurs rapports avec les autorités Portugaises, car elles respectent nos lois et nos règlements et contribuent d'une manière puissante au développement matériel du district.

Quant à *l'instruction*, le Gouvernement a créé dans le district deux écoles primaires, l'une civile, l'autre militaire, comme nous l'avons dit dans la section 13, et il a maintenu le service religieux de la Mission Catholique de Lourenço Marques, dépendant de la prélatrice ou préfecture ecclésiastique de Mozambique.

Enfin, dans l'intérêt de la *science*, le Gouvernement a joint aux explorations hydrographiques des siècles antérieurs, celle qui fut faite au dix-huitième siècle dans toute la baie par la frégate de guerre commandée par Antonio José de Mello,⁴ et celle qui, de nos jours, a été entreprise par la canonnière "Marie Anne" en 1871, sur tous les fleuves qui débouchent dans la baie, et dont les résultats sont consignés dans l'intéressant rapport auquel nous avons fait allusion plus haut et qui a été publié dans le "Bulletin de la Province de Mozambique."⁵

Chapitre VII.—Notice sur les tribus Cafres au nord et au sud de la Baie de Lourenço Marques.

Les indigènes qui peuplent le nord et le sud de la baie appartiennent à la grande famille des Cafres, laquelle forme, avec celle des *Saouahili*, les deux grandes divisions

¹ Voir le journal "République Française," du 31 Janvier, 1873.

² Bordalo, loc. cit., p. 126.

³ José Acursio das Neves, loc. cit., p. 283 et suivantes.

⁴ Bordalo, loc. cit., p. 277.

⁵ Du 23 Mars, 1872.

de la race principale qui habite l'Afrique australe et orientale.¹ Nous avons donné à ces Cafres le nom générique de *Landins* ou *Vatouás*, du nord ou du sud, suivant la région qu'ils occupent.

Toutes ces tribus peuvent réunir 80,000 hommes armés, dont la plupart savent faire usage des armes à feu, quoique celles dont ils se servent habituellement soient la zagaie et la rondache, qu'ils manient avec une grande dextérité.

Ces Cafres, outre la langue Portugaise qu'ils parlent plus ou moins correctement, ont un langage ou dialecte particulier à la Baie de Lourenço Marques et aux territoires qui en dépendent.

Ce dialecte dérive de celui du *Kafir Tsouana* et diffère de ceux de Mozambique et du bassin du Zambèze, qui sont des dialectes *Makoua*.

En 1842 le Docteur William Peters, Professeur de Médecine et Membre de l'Académie de Berlin, ayant visité ces contrées, s'occupa du dialecte de Lourenço Marques, au sujet duquel on connaît les travaux de William White,² d'Appleiards³ et surtout de Bleek.⁴

Section 1.—Tribus du nord et du nord-est de la Baie.

Au nord et au nord-est de la baie se trouvent les territoires de *Manhiça* ou *Magaia*, *Injote*, *Moamba*, *Cherinda* et ceux de *Mafoumo* et *Matolla*, gouvernés par leurs régules. Tous, excepté les deux derniers, sont soumis au puissant régule *Mouzilla*, chef de la race ou tribu des *Amatabelas*, notre vassal, qui habite plus au nord, dans les forêts de Sofala, sur le territoire *Madanda*, près de la rivière *Buzi*.

La ville et le fort Portugais sont situés sur le territoire de *Mafoumo*, qui s'étend sur la rive nord du *Saint-Esprit*.

L'actuel et puissant régule *Mouzilla* (*Umzilla*) ayant succédé à son père le célèbre *Manicousse*, dut soutenir une lutte acharnée contre son frère, le féroce *Maoueva*, qui lui disputait le pouvoir.

En cette occurrence il s'adressa au Gouvernement Portugais auquel il demanda un secours qui lui fut accordé. Après une campagne de plus d'une année, pendant laquelle nos armes furent victorieuses, la lutte se termina par les combats du 17 et 20 Août, 1862, dans les plaines de *Moamba*.⁵

Pour prix de ce puissant secours, le 2 Décembre, 1861, *Mouzilla* céda à la Couronne Portugaise, dont il se déclara de nouveau vassal et tributaire, les territoires de *Moamba*, *Cherinda*, *Manhiça* et *Injote*, en-deçà de la rivière *Incomati*. Ces territoires payèrent dès lors un tribut au Portugal et se trouvèrent entièrement affranchis de la domination de *Mouzilla*.⁶

Déjà le 5 Avril, 1805, le chef de *Moamba* avait fait don à la Couronne Portugaise des terres de *Mafoumo*, *Mafoumo Branco* et *Palane*, alors que José Antonio Caldas était Gouverneur de Lourenço Marques.⁷

Section 2.—Tribus du sud et du sud-ouest.

Au sud et au sud-ouest se trouvent les tribus du *Mapouto* et de *Tembe*, de la race des *Amazonasi*.

Le *Mapouto* embrasse aujourd'hui tout le territoire situé entre le fleuve de ce nom et les îles de l'*Unhaca* et des Eléphants, il s'étend dans l'intérieur et touche aux terres du *Panda*, Roi des *Zoulous*.

Ce territoire est gouverné par un régule qui, aux seizième et dix-septième siècles, était désigné sous le titre de Roi de l'*Unhaca* et qui, aujourd'hui, est connu sous celui de régule ou Roi de *Mapouto*.

Le Roi actuel est *Missonque* ou *Nasinguile*, fils de *Touma* et de *Molaty*; il commença à régner en 1850, à la mort de son grand-père *Macassana* (qui avait gouverné le

¹ W. D. Cooley, "Memoir on the Civilisation of the Tribes near Delagoa Bay;" Eugène de Frobergville, "Mémoire sur les Langues et les Races de l'Afrique Orientale, dans les Nouvelles Annales des Voyages," de Février, 1847, p. 216 et suivantes; H. C. von der Gabelentz, "Ueber die Sprache der Suaheli," dans le "Zeitschrift des Deutschen Morgenländischen Gesellschaft," ou "Journal de la Société Orientale d'Allemagne," tome 1, 1847, p. 238, &c.

² "Journal of a Voyage from Madras to Columbo and Delagoa Bay."—London, 1810, p. 65 et suivantes.

³ "Kafir Grammar, p. 57 et suivantes.

⁴ "The Languages of Mozambique. Vocabularies of the Dialects of Lourenço Marques, Inhambane, &c." London, 1856.—Voir l'Appendice No. 2.

⁵ Proclamation du 20 Septembre, 1862, du Gouverneur de Lourenço Marques et lettre officielle du 2 Octobre suivant au Gouverneur-Général de Mozambique.—Documents Nos. 13 et 14.

⁶ Document No. 15.

⁷ Document No. 16.

Mapouto depuis le commencement de notre siècle), son père *Touma* étant mort avant cette époque.

Le *Mapouto* se divise en plusieurs districts ayant chacun son chef. Un de ces districts est formé de l'île de l'*Unhaca*, qui est toujours gouvernée par un parent ou une parente du régule. Le dernier chef de l'*Unhaca* fut la cousine de *Missongue*, à qui les Portugais donnaient le titre de *Reine de l'Unhaca*, et qui était fille de *Mingouana*, fille aînée elle-même du vieux *Macassana*. Le régule *Missongue* fit assassiner il y a quelques années sa cousine et sa tante *Minguana*, sous prétexte qu'elles conspiraient contre lui et remplaça cette *Reine de l'Unhaca* par sa sœur *Gohica*.

Le territoire de *Tembe* ou *Catembe* comprend au sud-ouest toute la région qui s'étend au bord de la baie, depuis le fleuve *Mapouto* jusqu'à la rive sud du *Saint-Esprit*; il pénètre dans l'intérieur jusqu'aux frontières du régule du *Musuate* qui règne sur les montagnes du *Lebombo*.

Ce territoire, également divisé en petits districts, est gouverné par des régules à qui depuis de nombreuses années nous avons donné le titre de *Capella* qu'ils joignent à leur propre nom. Ainsi, le régule actuel dont le règne commença en 1857, se nomme *Bacute Capella*, et son prédécesseur, qui fut proclamé régule en 1823, se nommait *Maietta Capella*.

Conclusions de ce chapitre :

1. Les indigènes du nord et du sud de la baie appartiennent tous à la grande famille des Cafres et parlent, outre le Portugais, un dialecte particulier, qui est une branche du *Kafir Tsuana*.

2. Au sud et au sud-ouest se trouvent les peuples de *Mapouto* et ceux du *Tembe* ou *Catembe*, au nord et au nord-est, ceux de *Manhiça*, *Injote*, *Moamba*, *Cherinda*, et ceux de *Mafoumo* et *Matolla*.

3. Les peuples de *Mapouto* occupent le territoire situé entre le fleuve de ce nom et les îles de l'*Unhaca* et des *Eléphants*; ce territoire est divisé en districts et gouverné par un régule connu autrefois sous le nom de *Roi de l'Unhaca* et aujourd'hui sous celui de régule de *Mapouto*. Le Roi actuel est *Missongue* ou *Nasinguile*.

4. Les peuples de *Tembe* ou *Cotembe* occupent le territoire qui se trouve entre le *Mapouto* et la rive sud du *Saint-Esprit*, et qui est également divisé en districts et gouverné par un régule qui prend le titre de *Capella*. Le régule actuel est *Bacute*.

5. Les peuples du nord et du sud-ouest sont gouvernés par différents régules soumis au puissant *Mouzilla*, qui lui-même est vassal du Portugal et vit dans les forêts de *Sofala*.

DEUXIÈME PARTIE.

Chapitre I.—Histoire de l'Etablissement de la Souveraineté Portugaise dans la Baie de Lourenço Marques.

L'histoire de l'établissement de la souveraineté Portugaise dans la Baie de Lourenço Marques peut se diviser en trois époques : la première s'étend depuis l'exploration de Lourenço Marques en 1544 jusqu'au commencement du dix-septième siècle; la seconde depuis le commencement du dix-septième siècle jusqu'au milieu du dix-huitième; la troisième depuis ce temps jusqu'à nos jours.

Section 1.—Première Epoque (1544-1600).

A cette première époque les Portugais se considérant, suivant les idées et le droit public du siècle, maîtres de la baie qu'ils avaient découverte et commencé d'explorer en 1544, ne jugèrent pas nécessaire d'y établir une *fortification permanente*. Ils affirmèrent leur souveraineté en exerçant le monopole de la *navigation* et du *commerce* sur ce point, et en occupant toute la baie au moyen de factoreries au sud, au nord et au centre, sur le fleuve du *Saint-Esprit*.

Nous exerçons le monopole du commerce en y envoyant chaque année, de l'Inde ou de Mozambique, un vaisseau pour l'échange de l'ivoire, du cuivre, etc., ce qui constituait le commerce de la baie, ainsi que l'assurent les écrivains de ce temps.¹

Dans l'histoire du naufrage du galion "Saint Jean," Alvaro Fernandes fait mention du vaisseau envoyé à Lourenço Marques en 1552; Manuel de Mesquita Perrestrello, dans son rapport déjà mentionné sur le naufrage du "Saint Benoît," parle du vaisseau qui y fut envoyé en 1554, et qui recueillit les naufragés. Dans le curieux livre du domini-

¹ Document No. 17.

cain frère João dos Santos intitulé "Ethiopia Oriental," et imprimé à Evora en 1609,¹ il est fait mention du vaisseau sur lequel les naufragés du "Saint Thomas" trouvèrent un refuge en 1588, de celui qui, en 1593, recueillit les naufragés du "Saint Albert" et enfin de celui sur lequel João dos Santos lui-même fit route de Quirimba à Sofala, en 1594.

Quant aux factoreries Portugaises dans la Baie de Lourenço Marques et dans l'Île de l'*Unhaca*, au seizième siècle, il en est fait mention par Alvaro Fernandes en 1552, par Manuel de Mesquita Perestrello en 1554, par João Baptista Lavanha en 1597, et par Diogo de Couto en 1611, dans les rapports déjà cités sur les naufrages du galion "Saint Jean" et des vaisseaux "Saint Benoît," "Saint Albert," et "Saint Thomas."

Par le dernier de ces rapports, il est démontré que, déjà en 1589, quelques Portugais s'étaient établis au sud de la baie, à douze lieues de l'embouchure de Mapouto.

Section 2.—*Seconde Époque (1600-1744).*

Pendant la seconde époque, c'est-à-dire, du commencement du dix-septième siècle, jusque vers le milieu du dix-huitième, nous suivîmes le même système d'occupation au moyen de factoreries; mais déjà en 1635 l'établissement Portugais de la Baie de Lourenço Marques était regardé comme ayant une grande importance et faisait partie du vaste district de Sofala, l'un des trois qui formaient la circonscription de Mozambique.

A cette époque, nos possessions de l'Afrique orientale étaient divisées en deux circonscriptions; celle de Mombaza, qui s'étendaient du Cap Delgado à Zanzibar, et aux îles adjacentes, et celle de Mozambique, qui comprenait les districts de Sofala, de Mozambique et de Zambèze ou rivières de Cuama; ces faits se trouvent consignés dans le "Breve Tradado," ouvrage encore inédit, écrit en 1635 par Pedro Barreto de Rezende, secrétaire du Comte de Linhares, Vice-Roi de l'Inde, et dont un exemplaire existe à la Bibliothèque Nationale de Paris.

Partageant l'opinion de Barreto de Rezende, sur l'importance de Lourenço Marques, un officer distingué de la marine Française qui a sérieusement étudié l'histoire de l'Afrique orientale, écrit les lignes suivantes:—"Le capitaine de Sofala avait le monopole du commerce sur toute la côte comprise entre cette point et le Cap de Bonne Espérance, où il existait deux comptoirs assez importants, l'un par 26° de latitude sud, dans la Baie de Lagoa ou de Lourenço Marques, nom du premier Portugais qui, pour le traite de l'ivoire, alla y établir des relations régulières avec les Cafres; l'autre celui de Inhambane."²

Et notre établissement ne pouvait pas ne pas avoir cette importance, puisque déjà en 1647 il comptait une population de trois cent âmes, comme cela est prouvé par ce qu'écrivait, trois ans plus tard, Bento Teixeira Feyo dans la "Relation du naufrage des vaisseaux 'Sacrement' et 'Notre Dame de Atalaya,'" imprimée à Lisbonne en 1650, et que nous avons déjà cité plusieurs fois.³

Au dix-septième siècle, nos factoreries étaient au nombre de cinq:⁴ une au sud dans l'Île de l'*Unhaca*,⁵ une autre dans l'Île *Chefine*,⁵ une troisième au nord sur le territoire de *Manhiça*,⁶ et les dernières sur les deux rives du *Saint Esprit*. Ceci est prouvé par le témoignage indubitable d'écrivains de l'époque, tels que Diogo do Couto en 1611, Francisco Vaz de Almada en 1625 et Bento Teixeira Feyo en 1650.

A cette époque, comme l'assure ce dernier, il y avait déjà dans la Colonie une chapelle et un aumônier pour la desservir.⁷

Dans les dernières années du dix-septième siècle pourtant, un fait eut lieu qui, s'étant reproduit au commencement du dix-huitième siècle, nous obligea de changer notre système d'occupation.

Les Hollandais établis au Cap de Bonne-Espérance commencèrent à jeter des regards de convoitise sur la baie du Lourenço Marques.

¹ Liv. 3, chap. iv, fol. 84 v., chap. xv, fol. 79 v., et chap. xvi, fol. 81 v.

² Guillain, "Documents sur l'Histoire, la Géographie et le Commerce de l'Afrique Orientale." Paris, 1856, p. 453.

³ Page 85.

⁴ Bento Teixeira Feyo, "Relação do Naufragio que fizera as naus 'Sacramento' e 'Nossa Senhora da Atalaya,' indo da Índia para o Reino, no Cabo da Boa Esperança, de que era Capitão mór Luiz de Miranda Henriques em 1647." Lisbonne, 1650, p. 84.

⁵ Ibidem, p. 80.

⁶ Francisco Vaz de Almada, "Tratado do Successo que teve a nau S. João Baptista e Jornada que fez a Gente que d'ella Escapou desde 33° no Cabo da Boa Esperança, onde fez Naufragio, até Sofalla, &c." Lisbonne 1625, p. 73; et Diogo do Couto, "Relação do Naufragio da nau S. Thomé." Lisbonne, 1611.

⁷ Loc. cit., p. 83.

Le 19 Octobre 1688, ils y envoyèrent la galiote "Noord," sous le prétexte de faire des sondages dans la baie et d'en dresser la carte, mais en réalité dans le but de s'en emparer, en achetant le Gouverneur Portugais, João Jacques.

Le Lieutenant-Colonel de l'armée Anglaise Southerland raconte ce fait et ajoute qu'une semblable tentative était d'autant plus étrange que la Hollande vivait en paix avec le Portugal et que cette baie était la propriété des Portugais depuis deux siècles : *in the possession of the Portuguese for the last two hundred years.*¹

Cette tentative ayant échoué, les Hollandais changèrent de système et, abusant de la faculté de faire le commerce dans nos Colonies, faculté qui leur était concédée par l'Article IV du Traité de paix du 6 Août, 1661,² entre le Portugal et les Provinces Unies, ils tentèrent de fonder une petite factorerie commerciale dans la baie, près de notre établissement, avec la permission du Gouverneur Portugais qui, selon le droit et les idées de l'époque, n'aurait pas dû la leur accorder puisque le Portugal s'était réservé le monopole du commerce sur ce point soumis à sa domination.

Dans ce but, ils armèrent en 1721 deux ourques commandées par Guillaume van Taak, qui jetèrent l'ancre dans la baie le 3 Avril. La petite factorerie fondée par eux et gouvernée par Koning, dévastée par la maladie, fut peu de temps après détruite par les Cafres. Plus tard ils renouvelèrent encore leur tentative, mais elle fut abandonnée en 1734 ou 1735.³

Instruit de ces faits et de la tolérance de ses Délégués envers les Hollandais, le Gouvernement Portugais donna des ordres positifs au Marquis de Lourical, qui partit pour les Indes le 7 Mai 1740, en qualité de Vice-Roi, lui enjoignant de ne souffrir dans la baie aucun établissement étranger ; de semblables instructions furent encore données à son successeur, le Marquis de Castello Novo, le 25 Mars, 1744.⁴

En même temps, le Gouvernement décida que la baie serait convenablement fortifiée, et il ordonna, outre la construction de factoreries permanentes, le commencement de travaux réguliers de fortification.

Section 3.—Troisième Époque (1744-1782).

Pendant cette troisième époque, notre occupation, affirmée par les factoreries et le village sur le fleuve du Saint-Esprit, est garantie par des fortifications établies sur la rive droite de ce fleuve, sur le territoire du *Tembe* ou *Catembe*, dans l'île de l'*Unhaca*, à la pointe sud de la baie et dans l'île *Chefine*.⁵

Dans les ouvrages de quelques écrivains, même étrangers, nous trouvons une mention impartiale de nos fortifications de la baie de Lourenço Marques, au dix-huitième siècle, tant dans la ville même de Lourenço Marques, sur la rive sud du fleuve du *Saint-Esprit* (English River), que dans l'île de l'*Unhaca*.

En 1744, Le Rouge, ingénieur et géographe du Roi de France, sur la "Mappe-monde nouvelle," dédiée à Monseigneur le Comte de Maurepas et publiée à Paris dans la même année, place auprès de la baie la suivante indication—*F. (fort) Portugais*.

Emmanuel Bowen, ingénieur du Roi d'Angleterre, faisait à l'égard de la baie la même indication (*Portuguese F.*) dans son "Complete Atlas of Distinct Views of the Known World," publié à Londres en 1752.⁶

Jacob Frankens, dans la narration qu'il écrivit en 1759 de son voyage à Lourenço Marques, fait pareillement mention de la forteresse Portugaise.

Le Baron de Puffendorf, dans son "Introduction à l'Histoire Moderne, Générale et Politique de l'Univers," édition de M. de Grâce (Paris, 1759), fait aussi mention de notre fort de l'*Unhaca* : "Vers l'embouchure de la rivière de Maniça on trouve le Royaume d'Inhambane. Les Portugais ont au midi un fort qu'on appelle Inhaque."⁷

Berenger l'indique également, en 1732, dans sa suite de la géographie de Bushing : "Vers le sud les Portugais possèdent le fort d'Inhaque."⁸

Enfin Saint-Janvier, dans son "Atlas Universel," publié à Venise en 1784 (2^e partie,

¹ "Memoir respecting the Kaffirs, Hottentots, and Bosjemans of South Africa." Cape Town, tome 1, p. 52 et suivantes et 312 et suivantes.

² Document No. 18.

³ Document No. 19. José Accursio das Neves, "Considerações Politicas e Commerciaes sobre os Descobrimentos e Possessões dos Portuguezes." Lisbonne, 1830, p. 260 ; Bordalo, loc. cit., p. 22 et 277 ; Lyons McLeod, "Travels in Eastern Africa." Londres, 1860, p. 1857 ; Henry Hall, "Manual of South Africa Geography." Cape Town, 1859, p. 179, &c.

⁴ Document No. 20.

⁵ On voyait encore en 1763 les traces de la fortification à l'île Chefine.—Document No. 21.

⁶ Lettre No. 47.

⁷ Tome viii, p. 226.

⁸ "Suite de la Géographie de Busching," tome x, Lausanne, 1782, p. 90.

pl. 39) reconnaît le même fait : “ Baie de Laurent Marques ou du Saint-Esprit, où est le fort Inhaque aux Portugais.”

Le fort, situé sur la rive sud du *Saint-Esprit*, fut agrandi en 1755, d'après un ordre envoyé en 1752 au Gouverneur-Général de Mozambique, Francisco de Mello e Castro. Toutefois, jugeant plus convenable notre établissement sur la rive nord, nous nous y transportâmes en 1781, et nous construisîmes, sur les terres du régule Matolla, la ville et le nouveau fort, dont la dépense, jusqu'en 1790, monta à 160,000,000 réis (888,000 fr.)¹

C'est là que nous sommes restés jusqu'à ce jour, faisant le commerce et occupant avec nos forces militaires, outre le fleuve du Saint-Esprit, la pointe nord de la baie, dans l'île de Benguelene, à l'entrée de *Manhiça*, et l'île de l'*Unhaca*, au sud. Néanmoins, en attendant la juste décision qui doit mettre fin à ce différend, et dans le but de rendre bien évidente la bonne foi Portugaise, nous avons évacué ce dernier point depuis que cette affaire a été soumise à l'arbitrage.²

Dans les premières années de notre siècle, James Horsburg³ fait mention des restes de notre première fortification sur la rive sud du fleuve Saint-Esprit : “ Vis-à-vis de cette pointe, dit-il, on voit, sur la rive opposée, les ruines d'un fort Portugais.”

L'existence, au dix-huitième siècle, du fort Portugais sur la rive sud de ce fleuve est également reconnue en 1823 par le Capitaine Owen lui-même dans une lettre au Gouverneur de Lourenço Marques, et en 1862 par le Ministre Anglais à Lisbonne, Sir Arthur C. Magenis, dont une note⁴ en date du 18 Mars ; et, quoiqu'il prétende atténuer la valeur de cet *aveu* en disant que le Portugal payait pour ce droit un tribut annuel comme cens (*fôro*) au Roi de Tembe, qui se nommait le Capella, il ne prouve et ne pourra jamais prouver son assertion, qui est en tous ses points inexacte ; ce ministre confond des choses essentiellement différentes, car les Portugais sont dans l'usage de faire des présents à ces rois, leurs vassaux, quand ceux-ci viennent payer leur tribut annuel.

Conclusions de ce chapitre :

1. L'histoire de l'établissement Portugais dans la baie de Lourenço Marques se divise en trois époques : la première de 1544 à 1600 ; la seconde de 1600 à 1744, et la dernière de 1744 jusqu'à nos jours.

2. Pendant les deux premières époques nous exerçons notre souveraineté au moyen du monopole de la navigation et de l'occupation de la baie par des factoreries situées au sud, au nord et au centre du Saint-Esprit et aussi par un petit établissement placé douze lieues au-dessus de l'embouchure du fleuve *Mapouto* en 1589.

3. Pendant la seconde époque, Lourenço Marques était déjà un district important, dépendant de Sofala. Il possédait en 1647 une population de trois cents personnes libres, un chapelain et six factoreries établies dans l'*Unhaca*, dans l'île *Chefine*, sur le territoire du *Manhiça* au nord, et sur le fleuve du *Saint-Esprit*.

4. Les tentatives d'ailleurs infructueuses des Hollandais pour s'établir dans la baie vers la fin du dix-septième siècle et le commencement du siècle suivant nous conduisirent, dans la première moitié du dix-huitième siècle, à défendre nos droits de premiers occupants au moyen de fortifications.

5. Ces fortifications, ainsi que le démontre le témoignage des étrangers eux-mêmes, se trouvaient placées au sud de l'*Unhaca*, au nord dans le *Manhiça*, dans l'île de *Benguelene* et dans la *Chefine*, et au centre sur le fleuve du *Saint-Esprit* (*English River*).

6. Le fort se trouvait primitivement sur la rive gauche de ce dernier fleuve, sur le territoire du *Tembe* ; il en reste, de l'aveu des Anglais eux-mêmes, quelques ruines ; plus tard il fut transporté sur la rive nord, où on le voit encore aujourd'hui.

7. Nous occupions ainsi le fleuve du *Saint-Esprit* et les pointes nord et sud de la baie, mais nous avons quitté la pointe sud (celle de l'*Unhaca*), depuis que le différend a été soumis à l'arbitrage, et afin de prouver notre bonne foi, notre respect pour l'arbitre et la confiance que nous avons dans notre droit.

Chapitre II.—*Système de domination suivi par les Portugais.*

Le système de domination suivi par les Portugais dans l'Afrique et sur d'autres points ne peut être mieux décrit qu'il l'a été par l'Ambassadeur de Portugal à Londres,

¹ Jeronymo José Nogueira de Andrade, “ Descrição da Capitania de Moçambique em 1790.” MS. de la Bibliothèque Nationale de Lisbonne, B. 2^{de}.

² Document No. 22.

³ “ Instructions Nautiques,” loc. cit., p. 367.

⁴ Documents Nos. 41 et 70.

João Pereira Dantas, dans l'exposé adressé à la Reine d'Angleterre, Elisabeth, le 22 Mai, 1562, et qui se trouve en manuscrit au Musée Britannique.¹

Il peut se résumer de la manière suivante :—

1. La Couronne Portugaise, d'après le droit public de cette époque, avait acquis la possession de ces territoires par le fait de leur découverte par les Portugais, et cela au moyen de grandes dépenses d'argent, au prix de l'existence de nombreux citoyens et avec un immense profit pour les nations de l'Europe.

2. Le but des Souverains Portugais étant, non-seulement le commerce, mais aussi la civilisation des indigènes au moyen de la propagation de la foi, ils faisaient rechercher l'amitié et le vasselage des régules, soumettant les uns à un léger tribut en signe de sujétion, exemptant les autres de ce tribut et accordant même à quelques-uns d'entre eux des pensions, suivant les services qu'ils prêtaient à la Couronne Portugaise; c'est donc une grave erreur que de supposer que le Portugal n'avait de souveraineté que là où on lui payait un tribut.

3. La Couronne Portugaise ne voulut jamais priver les indigènes de la propriété de leur territoire; elle reconnut même leurs droits de propriété, et les laissa libres; c'est pourquoi elle acceptait des donations ou cessions, et leur achetait même des terrains, agissant en cela comme tout gouvernement d'un pays peut le faire envers ses propres citoyens.

4. Quant à la manière de jouir de la possession de ses domaines, le Portugal suivait deux systèmes; chez les peuples dont la fidélité pouvait être ébranlée par la crainte des invasions des Turcs, des Sarrasins ou d'autres, il élevait en toute hâte des forts, mais chez ceux où une semblable éventualité n'étaient point à redouter ou bien, là où cette dépense n'était pas nécessaire, et surtout sous les climats pestilentiels, il se contentait d'établir de simples factoreries et d'y envoyer des navires, pour les besoins du commerce.

5. Sur les points où le Portugal n'avait pas construit de forts, l'amitié et l'obéissance des peuples étaient telles, que cette dépense eût été superflue.

6. Le Portugal jouissait publiquement et paisiblement de sa souveraineté sur ces colonies, souveraineté respectée par toutes les nations.

Fidèles à ces principes, les Portugais ne privèrent jamais les différents régules de la baie de la propriété de leurs terres, ils se contentaient de considérer comme vassaux ces régules qui, en signe de soumission à la Couronne Portugaise, leur donnaient chaque année une certaine quantité d'ivoire et de cornes de rhinocéros, des bestiaux, du riz ou d'autres provisions et recevaient en échange un présent (*saguete*) composé d'habillements et d'eau-de-vie, et quelques-uns même une pension mensuelle.

Conclusions de ce chapitre :

1. Le Portugal, dans la manière dont il a exercé sa domination sur les territoires qu'il a acquis en Afrique depuis le quinzième siècle, s'est toujours laissé guider par un esprit de civilisation et d'humanité.

2. Nous cherchions à gagner l'amitié des Chefs indigènes, nous contentant de leur vasselage.

3. Nous leur avons toujours laissé intact le droit de propriété, c'est pourquoi nous en acceptions des donations ou des cessions de terrains.

4. Nous nous contentions de leur vasselage, et nous recevions seulement comme signe de leur dépendance un léger tribut; à quelques-uns d'entre eux nous faisons remise de ce tribut, à quelques autres même nous accordions une solde ou pension.

5. Nous nous étions réservé le monopole du commerce et de la navigation, nous établissions des factoreries et n'élevions de forts, en général, que dans les contrées où notre droit et notre propriété pouvaient être menacés par des étrangers.

6. L'Angleterre a une parfaite connaissance de notre système de domination, grâce à l'exposé qu'à ce sujet le Chargé d'Affaires João Pereira Dantas adressa à la Reine Elisabeth le 22 Mai, 1562.

Chapitre III.—*Manifestations de notre Souveraineté.*

Les actes suivants peuvent, entre autres, être indiqués comme des manifestations de notre souveraineté dans la baie de Lourenço Marques.

1. Le titre ou dénomination de *Senhores da conquista, navegação e commercio da Ethiopia, Arabia, Persia e India*, etc. (maîtres de la conquête, de la navigation et du commerce de l'Ethiopie, de l'Arabie, de la Perse, et de l'Inde) que les monarques Portugais ont pris depuis le Roi don Manuel, après l'arrivée de la flotte de Vasco da Gama en

¹ "Bibliothèque Cottonienne," Nero, B-1, fol. 99.

1499,¹ et qu'ils conservent encore aujourd'hui et ont ajouté à l'ancien titre de *Reis de Portugal e dos Algarves, d'aquem e d'alem mar em Africa* (rois de Portugal et des Algarves, en deçà et au-delà de la mer en Afrique).

Ce titre n'était pas un titre de *prétention*, il constituait un titre de *possession* ; il fut toujours l'expression d'un fait *incontesté* et non un simple *titre de mémoire*, comme le dit Kluber.² Le mot *Ethiopie*, qui y est employé, désigne l'Afrique orientale, ainsi que le remarque le Vicomte de Santarem.³

En effet, pour le Portugal, ce titre n'était point une banalité : il signifiait le fait de la *domination* et de la *possession* de ces contrées. L'un des hommes les plus versés dans la géographie de l'Afrique, M. d'Avezac, le reconnaît lui-même quand il dit, en parlant de Jean II. : " Le Roi Jean II. ajouta à ces titres officiels celui de Seigneur de Guinée. Toutes les côtes jusqu'alors reconnues par ses sujets semblèrent désormais former un seul domaine dont une prise de possession solennelle était constatée." ⁴

2. L'*occupation* et la *possession* de la baie depuis le seizième siècle, d'abord au moyen de factoreries établies au nord et au sud dans l'*Unhaca* et au centre de la baie sur le fleuve du *Saint-Esprit* et dans l'île *Chefine*, et plus tard à l'aide de fortifications, comme cela a été démontré dans le chapitre 1 de la troisième partie.

3. Le *monopole* du commerce pour le compte de l'Etat, sous différentes formes, jusqu'en 1755, époque à laquelle il fut déclaré libre pour les *nationaux* par une Ordonnance du 10 Juin à la seule exception de la verroterie, déclarée également libre par Ordonnance du 7 Mai, 1761, et jusqu'à l'époque où le commerce fut ouvert aux étrangers par Décret du 17 Octobre, 1853 ; et le monopole de la navigation jusqu'au moment où nous ouvrîmes nos colonies aux étrangers, comme nous l'avons déjà fait remarquer.

4. L'*expulsion des étrangers*, qui prétendirent s'établir dans nos colonies et y faire le commerce, ce que nous prouvons par les faits suivants :—

1. Les ordres donnés, ainsi que nous l'avons déjà dit, aux Vice-Rois de l'Inde leur enjoignant de ne pas souffrir dans la baie la présence des Hollandais qui tentaient d'y établir leur commerce. (Seconde partie, chapitre i.)

2. Le Lieutenant-Colonel Anglais William Bolts, au service Autrichien de la Compagnie Asiatique de Trieste, autorisée par l'Impératrice Marie-Thérèse dans une lettre du 5 Juin, 1775, prit en 1777 le commandement d'une expédition transportée par le vaisseau " Joseph et Thérèse," et qui se dirigea vers l'Inde après avoir touché à Lourenço Marques et y avoir laissé quelques troupes avec de l'artillerie. Le Gouverneur de l'Inde protesta sans retard contre cet attentat à la souveraineté Portugaise et rendit compte de ce fait au Gouvernement de la métropole dans les lettres officielles du 28 et du 30 Avril, 1778. Dans sa réponse du 15 Mars, 1779, le Gouvernement le chargea d'envoyer une expédition militaire dans la baie pour en chasser les intrus.⁵

Cet ordre fut exécuté en 1781 par le Gouverneur de l'Inde don Frederico Guilherme de Sousa qui, le 19 Janvier de la même année, fit embarquer sur la frégate de guerre " Sainte-Anne," de quarante canons, un corps de troupes composé de deux compagnies d'infanterie et de cipayes et d'un détachement d'artillerie de campagne, le tout placé sous les ordres du Lieutenant-Colonel Joaquim Vicente Godinho de Mira et formant un total de 500 hommes.

L'expédition toucha à Mozambique le 20 Février suivant, parvint dans la baie de Lourenço Marques le 30 Mars et y resta jusqu'au 4 Mai.

En exécution des ordres du Gouvernement, le commandant de l'expédition détruisit, le 1 Avril, l'établissement Autrichien du fleuve du *Saint-Esprit*, et, le 21, des magasins qui avaient été construits dans l'île de l'*Unhaca* ; il s'empara de deux navires nommés " Prince Ferdinand " et " Comte de Paoli ; " il fit sortir de la baie un bâtiment Anglais de Bombay qui s'y était rendu pour y faire le commerce, et reçut enfin l'hommage de soumission des régules de Catembe ou Tembe, et de l'*Unhaca* au sud et de ceux de Mafoumo et Matolla au nord.⁶

L'Angleterre ne protesta point contre ces faits ; elle ne peut même alléguer son ignorance à cet égard puisqu'un navire marchand Anglais commandé par Thomas George⁷ fut chassé de la baie en cette occasion, que ces événements furent connus du monde entier, et que même ils sont rapportés par quelques écrivains Anglais parmi lesquels

¹ João Pedro Ribeira, " Dissertações Chronologicas e Criticas," tome ii, Lisbonne, 1811, p. 208.

² Loc. cit. sec. 3, Réal, " Science du Gouvernement," tome v, p. 4, sec. 4.

³ " Tableau Elémentaire des Relations Politiques et Diplomatiques du Portugal," tome xv, Paris, 1854, p. 107, note 138.

⁴ Article Guinée dans " l'Encyclopédie des Gens du Monde."

⁵ Documents Nos. 23 et 24.

⁶ Documents Nos. 25, 26, et 27 et annexes.

⁷ Document No. 27, annexe No. 7.

David Macpherson, qui en parle dans son livre, “The History of the European Commerce with India.”¹

Le Ministre d'Autriche à Lisbonne, le Chevalier de Lebzelter, s'empresse, par lettre du 10 Janvier, 1782, de communiquer l'événement au Prince Kaunitz Reitzberg, lequel lui ordonna, par sa dépêche du 23 Février (dont il l'autorisait à donner connaissance au Gouvernement Portugais), de demander des explications à ce sujet, ce qu'il exécuta.²

Le Gouvernement Portugais soutint ses droits, que d'ailleurs la *Cour de Vienne* ne contestait pas, ne se plaignant que de la manière dont on les avait fait valoir ; et par dépêche du 9 Avril il donna des instructions sur l'affaire et sur notre droit au Comte d'Oeynhausen, notre Envoyé près la dite Cour, en lui ordonnant également de faire savoir au Gouvernement Autrichien que, par déférence envers Sa Majesté Impériale on allait faire remettre aux armateurs les navires capturés et mettre en liberté les prisonniers, mais qu'on espérait que pareil attentat ne se renouvelerait plus.³ Notre Ministre exécuta ces ordres et en rendit compte par dépêche du 11 Mai ;⁴ la Cour de Vienne se déclara satisfaite, et ainsi finit cet incident diplomatique.⁵

3. L'expulsion à coups de canon, d'un navire Anglais, qui s'était introduit en 1815 dans la baie et cherchait à y faire la contrebande, au mépris de la loi, expulsion contre laquelle l'Angleterre n'éleva ni réclamation ni protestation.⁶

4. La confiscation du navire marchand Anglais “Eleonor of London,” près du fleuve Mapouto en 1825, et celle d'une goëlette également Anglaise qui, en 1828, faisait un commerce défendu sur le même fleuve ; nous n'insistons pas toutefois sur ces deux faits, car ils sont postérieurs à ce fameux titre de cession invoqué par l'Angleterre.

5. Le châtement infligé aux tribus dont la conduite, pour quelque fait isolé et heureusement assez rare, méritait une répression ; ce dont il nous suffira d'indiquer les exemples suivants :

1. Par rapport au *Tembe* ou *Catembe*, la sévère punition que nous infligeâmes en 1552 à une tribu de ce territoire, alors que nous incendiâmes un village et que nous punîmes de mort son chef *Macamana*, pour avoir insulté et accablé de coups Bastião de Lemos, Capitaine d'un navire Portugais, fait qui conduisit le régule de *Tembe* à nous offrir toutes les réparations possibles et à établir avec nous une paix durable, ainsi que le rapporte Perestrello dans son récit du naufrage du vaisseau “Saint-Benoît.”⁷

2. Par rapport au *Mapouto*, le châtement qu'il subit en 1824, alors que Teixeira était Gouverneur par intérim, châtement infligé à une tribu qui s'était soulevée et que le régule de *Tembe* nous aida à punir. Ainsi l'avoue le narrateur même de l'expédition d'Owen, tout en défigurant, comme d'habitude, les faits : “Teixeira, who now succeed to the command, was obliged to call upon one of the other Powers for assistance. Mayetta instantly came forward, being the constant enemy of Machacane : but as soon as the latter heard of Mayetta's intention he attacked Temby, but was drawn into an ambush by his more skilful enemy, where the greater part of his soldiers were destroyed.”⁸

Chapitre IV.—Rapports des Portugais avec les régules du sud et du sud-ouest (*Tembe* et *Mapouto*).

Laissant de côté l'histoire de nos rapports avec les régules du nord et du nord-est de la baie, dont le territoire ne fait pas l'objet du conflit, et qui ne nous est pas contesté, rapports au sujet desquels, en tous cas, nous en avons suffisamment dit dans le chapitre 7, section 1^e de la 2^e partie, nous devons parler de ceux que nous entretenons avec les deux régules de la partie contestée, ceux du *Tembe* ou *Catembe* et du *Mapouto*.

Depuis le commencement du seizième siècle, nos relations avec les régules du *Tembe* ont toujours été des plus cordiales : nous nous bornerons à citer quelques faits à l'appui de cette assertion.

1. En 1552, à l'occasion du châtement sévère que nous infligeâmes à un village, le régule vint faire sa soumission et demander la paix, comme nous l'avons déjà dit dans le Chapitre III.

2. Les régules ont accepté de bon gré notre souveraineté, et se sont considérés comme nos vassaux.

3. En signe de soumission ils nous ont toujours payé un tribut, et ils venait et

¹ Londres, 1812, p. 313 et suivantes, document No. 28.

² Document No. 29 et annexes.

³ Document No. 30.

⁴ Document No. 31.

⁵ Makintosh, “Lettres,” ii, 37.

⁶ Bordalo, loc. cit., p. 278, et suivantes.

⁷ Dans “l'Historia Tragico-Maritima,” tome i, p. 165,

⁸ “Narrative of Voyages, &c.,” tome ii, p. 22.

viennent encore, à leur entrée au pouvoir, se faire *investir* de l'autorité dans notre forteresse et prêter *foi et hommage* au Roi de Portugal, comme nous le dirons dans le Chapitre VI de la 4^e partie de ce Mémoire.

4. En qualité de vassaux, ils avaient recours au Gouvernement Portugais et lui demandaient des secours lorsque quelque révolte des tribus Cafres les mettait en danger, comme cela eut lieu en 1793 et en 1819; de même, en cas de guerre, si nous avions besoin d'eux, ils venaient, par une sorte d'*hommage-lige*,¹ mettre leurs efforts à notre service, ainsi que cela arrive en 1824 alors qu'ils nous aidèrent à étouffer un soulèvement dans le *Mapouto*.

5. Ils allèrent même jusqu'à nous faire une donation expresse de leurs terres en 1794.

6. Ils reçurent de nous le titre de *Capella*.

Au dix-huitième siècle les régules du *Tembe* étaient fort puissants, car non-seulement ils dominaient toute la partie sud de la baie, mais encore ils avaient soumis le régule même du *Mapouto* ou de l'*Unhaca*, comme on l'appelait jadis. Leur importance à cette époque était rapportée par quelques écrivains qui s'occupaient de cette partie de la Cafrerie, tels que White² et Pinkerton :³ " Dans la partie méridionale, il y a un roi appelé Capelleh (*Capella*), dont les domaines s'étendent à une distance d'environ 170 milles dans l'intérieur et environ 85 sur le rivage de la mer."

Aujourd'hui leur pouvoir est quelque peu amoindri et le régule de *Mapouto* est complètement indépendant de celui du *Tembe*.

Depuis le seizième siècle, nous entretenons aussi des rapports d'amitié avec les régules de l'*Unhaca* ou *Mapouto*.

Pour le prouver il suffira de citer les faits suivants :

1. Le régule qui gouvernait en 1544, à l'époque où la baie fut explorée par Lourenço Marques, prit le nom de *Garcia de Sá*, d'un Portugais auquel il ressemblait; il avait les Portugais en grande amitié et vivait encore en 1552, ainsi que l'écrivit Alvaro Fernandes qui le connut particulièrement, dans son " Récit de la perte du galion Saint-Jean."⁴

2. Dans cette même année, Pantaleão de Sá, comme l'affirme le même Alvaro Fernandes,⁴ rendit à ce régule le service de l'aider, avec 20 Portugais et 500 Cafres, contre un chef révolté d'un district situé vers le sud.

3. Nous entretenîmes les mêmes rapports d'amitié avec le fils de *Garcia de Sá* qui gouverna jusqu'en 1587.

4. Le fils de ce régule, petit-fils de *Garcia de Sá*, qui commença de régner en 1587, était également fort dévoué aux Portugais, ainsi que sa sœur mariée dans les contrées du sud, aux *Dunes d'Or* (*Medaes de Oiro*), près du fleuve de l'*Abondance*.

En 1593, Nuno Velho Pereira intercédait, près de ce régule de l'*Unhaca*, en faveur du Roi *Gimbacucuba*, qui gouvernait vers le sud, dans le but de faire rendre à ce dernier les terres qui lui avaient été usurpées en 1597. Ce fait est raconté par *João Baptista Lavanha*, dans son " Récit du Naufrage du vaisseau Saint-Albert."⁵

5. A ce régule succéda *Sangane* qui fut dépouillé par son successeur *Manganheira*. Celui-ci gouvernait en 1623, toujours dans les meilleures relations avec nous, ainsi que cela est rapporté en 1635 par Francisco Vaz de Almada, et en 1650 par Bento Teixeira Feyo, dans les récits déjà mentionnés des naufrages des vaisseaux " Saint-Jean-Baptiste " et " Notre-Dame de Atalaia."

6. Ce régule *Sangane*, qui, après avoir été dépouillé de l'*Unhaca* par *Manganheira*, occupait encore une étendue de territoire entre le fleuve *Mapouto* et le *Tembe*, reçut, le 3 Avril, 1623, en récompense de sa fidélité aux Portugais, la Croix du Christ, suspendue à une chaîne d'or, que le Capitaine Pero de Moraes lui-même lui passa au cou.

7. Ces régules, comme ceux du *Tembe*, acceptèrent notre souveraineté, se considérèrent comme nos *vassaux*, prêtèrent *foi et hommage* à la Couronne Portugaise, nous payèrent un tribut et reconnurent même notre souveraineté par écrit en Octobre 1823.⁶

¹ Salvaing, " De l'Usage des Fiefs," chap. iv et xviii; " Dictionnaire de l'Ancien Régime," par Paul D—— de P——, Paris, 1820, v. Vassal,

² " Journal from Madras," 1800.

³ " Géographie Moderne," trad. de Walcknaer, Paris, an xii (1804), tome vi, p. 407.

⁴ Dans " l'Historia Tragico-Maritima," tome i, p. 23.

⁵ Dans " l'Historia Tragico-Maritima," tome ii, p. 306.

⁶ Documents Nos. 32, 33 et 34.

TROISIÈME PARTIE.

Chapitre I.—*Nature du différend qui existe entre le Portugal et l'Angleterre au sujet de Baie de Lourenço Marques.*

La Grande-Bretagne conteste au Portugal la possession d'une partie de la baie de Lourenço Marques; elle réclame la souveraineté du territoire du Tembe et de Mapouto, à partir de la rive sud du fleuve du *Saint-Esprit* (*English River*) jusqu'aux îles de l'Unhaca et des Eléphants et ne reconnaît au Portugal que son droit sur la partie qui, de la rive du Saint-Esprit où nous avons la forteresse, s'étend vers le nord.

Le Portugal soutient son droit sur toute la baie, c'est-à-dire, jusqu'au 26° 30' de latitude sud.

La Carte No. 2 montre clairement la portée de ces prétensions réciproques.

S'il est fait justice à la réclamation du Portugal, les limites sud de ses possessions dans l'Afrique Orientale s'étendront jusqu'au 26° 30' de latitude sud et embrasseront toute la baie de Lourenço Marques.

Si les réclamations de l'Angleterre sont écoutées, les limites sud de nos possessions dans ces contrées seront formées par une ligne idéale tirée du fort Portugais ou de la rive nord du fleuve du *Saint-Esprit* (*English River*) par 25° 58' de latitude sud.

Chapitre II.—*Origine et différentes phases du différend soulevé entre le Portugal et l'Angleterre.*Section 1.—*Première Époque (1823-1860).*

La nature des prétentions des deux pays à l'égard de la baie de Lourenço Marques étant définie, nous allons exposer l'origine et les différentes phases du conflit dont nous diviserons l'histoire en trois époques : la première de 1823 à 1860, la seconde de 1860 à 1869, et la troisième de 1869 jusqu'aujourd'hui.

Lorsque le Gouvernement Anglais envoya dans l'Afrique Orientale le Capitaine Owen dans le but d'étudier la partie nord de la côte du Cap de Bonne-Espérance, Lord Londonderry, Ministre des Affaires Etrangères, demanda, dans une lettre officielle datée du 2 Février, 1822, au Chevalier d'Oliveira, Chargé d'Affaires du Portugal à Londres, la faveur de recommander ce Capitaine aux autorités Portugaises établies dans ces contrées,¹ ce qui lui fut promptement accordé.² A son arrivée à Lisbonne, le 23 du même mois, le Capitaine Owen obtint encore des lettres de recommandation du Ministre de la Marine et des Colonies, l'Amiral Quintella, ainsi qu'il l'avoue lui-même dans la description ou le rapport de son voyage, publié en 1833.³

Le Capitaine Owen partit de Lisbonne et arriva dans la baie de Lourenço Marques avec les navires "Leven" et "Barracouta" le 27 Septembre, 1822; il y resta jusqu'en Novembre et y revint encore dans les premiers mois de 1823 et en Septembre de l'année 1825.

Pendant tout ce temps, le capitaine commit une suite d'attentats contre la nation Portugaise, abusant de la bienveillance qui lui avait témoignée le Gouvernement et des recommandations qu'il en avait obtenues pour les autorités chargées de le représenter.

Profitant d'une mésintelligence survenue entre les gens du régule de Tembe (qui d'ailleurs n'était point encore installé et reconnu comme tel) et le Gouverneur Portugais, à cause de la mort d'un indigène, le Capitaine Owen mit tous ses efforts à les détacher de leur soumission à la Couronne Portugaise et essaya de les gagner au moyen de présents; il fabriqua un écrit sur lequel il mit la date du 8 Mars, 1823, écrit d'après lequel le régule de Tembe aurait cédé à la Grande-Bretagne la souveraineté de son territoire, puis, usant du droit de la force, il alla planter le drapeau Anglais, non seulement sur les terres du Tembe mais encore sur celles du Mapouto.³ Nous examinerons plus loin la valeur de cet écrit, qui porte le cachet de la fausseté.

Il est à remarquer que le vieux régule Capella était mort en Septembre, 1822, et que, d'après un ancien usage, le décès du régule doit être tenu secret pendant un an; ce n'est qu'au bout de ce temps que son successeur est proclamé. Le Capitaine

¹ Document No. 35.

² "Narrative of Voyages to Explore the Shores of Africa, Arabia, and Madagascar performed in Her Majesty's Ships 'Leven' and 'Barracouta,' under the direction of Captain W. T. Owen, &c." London, 1833, tome i, p. 6. Au sujet de cette expédition on peut voir dans les "Nouvelles Annales des Voyages," de 1833, la "Relation des Voyages du Capitaine Owen," au tome iv, p. 326 et suivantes.

³ "Narrative of Voyages to Explore the Shores of Africa, &c.," tome i, p. 100 et suivantes.

Owen, pour éluder cette difficulté et donner quelque vraisemblance à la cession qu'il espérait obtenir, s'ingénia à faire croire que par exception et par *faveur* pour lui, le nouveau régule avait été proclamé aussitôt après la mort de son prédécesseur¹ : "By an ancient law, not a man in the kingdom dared to mention it during one year. Upon this occasion, however, the ancient custom was departed from, and within two months after the death of King Kappel, his grandson and successor Mayetta was proclaimed." Ce fait est absolument faux puisque ce ne fut qu'après l'année révolue et suivant l'usage, que le régule Maïetta fut proclamé (le 19 Octobre) et qu'il vint rendre hommage à notre souveraineté dans le fort Portugais.

Le Capitaine Owen, dans une lettre du 9 Mars, 1823,² eut l'audace de faire connaître cet attentat au Gouverneur Portugais de Lourenço Marques.

A la suite de cette tentative d'usurpation du Capitaine Owen, Joseph Nowe, Commandant des Forces Navales de l'Angleterre au Cap de Bonne-Espérance, en donna communication aux navires marchands Anglais, au moyen d'instructions ou de passe-ports en date du 1 Juin, 1823.³

Non content encore de cela, le Capitaine Owen fabriqua deux autres pièces qu'il fit passer pour des Traités de Commerce faits avec le régule de Mapouto, datées du 3 et du 23 Août et dans lesquelles le régule était sensé mettre son territoire sous le protectorat de la Grande-Bretagne.⁴ Dans la cinquième partie nous apprécierons la valeur de ces pièces.

Dans une lettre du 26 Août, Owen fit également part au Gouverneur de Lourenço Marques de ce nouvel attentat.⁵

En arrivant à Mozambique, le Capitaine Owen eut encore l'impudence de rendre compte de ces faits au Gouverneur-Général Jean Emmanuel da Costa, dans une lettre écrite le 7 Octobre, 1823, à bord de son navire le "Leven." Il cherchait à s'excuser, alléguant que le Portugal n'avait aucun domaine au-delà des limites du fort de Lourenço Marques; que le régule du Tembe avait insisté auprès de lui pour lui faire accepter la souveraineté du territoire; qu'à cette condition seulement il avait pu en obtenir des hommes pour l'aider et que, *uniquement pour cette cause* (on these conditions only) et *placé dans cette situation* (situated as I was) il était devenu pour lui de *toute nécessité* (et because a matter of necessity) *d'accéder aux vœux* du régule et du peuple.⁶

De retour dans la baie le 18 Avril, 1824, Owen fit de nouveau arborer dans le Tembe le pavillon Anglais par le Lieutenant Johnes accompagné d'une troupe de marins qui arrachèrent le drapeau Portugais, après quoi il quitta la baie le 21 Mai,⁷ profitant, pour l'accomplissement de ce nouvel outrage, du trouble où se trouvait le fort, à cause de la mort récente du Gouverneur effectif Lupi de Cardenas et de celle de Teixeira, qui l'avait remplacé par intérim, le fort n'étant plus commandé en ce moment que par un sous-officier nommé Maximiano José Fernandes.

Le 28 Août, 1825, le Capitaine Owen revint dans la baie avec la corvette "Leven" le brick "Barracouta," et une goëlette. Le 30, il s'empara du brick "Elconor of London" qui avait été saisi pour avoir fait la contrebande dans le Mapouto, tua d'un coup de fusil tiré de son navire un tambour de la garnison, et, le 31, il vint assiéger le fort menaçant de le raser à coups de canon s'il ne se rendait dans les vingt-quatre heures!

Devant l'énergique attitude du Gouverneur de Lourenço Marques, Owen renonça à l'accomplissement de ses menaces; il eut néanmoins la hardiesse d'envoyer une compagnie de ses hommes arracher du Tembe le drapeau Portugais qu'il emporta en Angleterre et de laisser au même Gouverneur des *instructions* dans lesquelles, d'ailleurs, il reconnaissait que le différend qui existait au sujet de la possession du Tembe devrait être plus tard résolu par les deux Gouvernements⁸: le Gouverneur Portugais fit part de tous ces faits à son Gouvernement dans les dépêches officielles du 5 Septembre, 1825, et du 6 Juin, 1826, dont les copies furent envoyées au Ministre de Portugal à Londres afin d'appuyer ses réclamations.⁹

Et maintenant, qu'ont fait les intéressés contre cette série d'attentats?

¹ Document No. 36.

² Document No. 37.

³ Document No. 38.

⁴ Documents Nos. 39 et 40.

⁵ Document No. 41.

⁶ Document No. 42.

⁷ "Narrative of Voyages to Explore the Shores of Africa, &c., under the direction of Captain Owen." London, 1833, tome ii, p. 24.

⁸ Document No. 33.

⁹ Document Nos. 44, 45, 46, et 47.

Le 8 Octobre, 1823, le régule *Macassana Maxilleme* protesta contre cette fausse cession du Mapouto déclarant qu'il ne reconnaissait que les Portugais comme maîtres de ce territoire et que toute convention faite avec une autre nation devrait être regardée comme nulle; il signa cette déclaration conjointement avec son frère et Premier Secrétaire *Camana* et avec Miguel Lupi de Cardenas, Gouverneur de Lourenço Marques.¹

Le régule du Tembe, *Maietta Capella*, protesta également le 20 Octobre, dans sa ville de Machanja, déclarant en présence de sa cour, de ses parents et de ses Secrétaires et en celle du Gouverneur de Lourenço Marques et d'autres temoins:

1. Que lui et son peuple, étaient *Landins*, fils de Capella, qui était né des *Molungos* (Portugais).

2. Qu'il n'avait signé aucun écrit au Capitaine Owen, ni cédé aucun territoire à l'Angleterre, ce qu'il n'aurait pu faire puisque tout le territoire appartenait aux *Molungos* (Portugais).

3. Que s'il avait reçu du Capitaine Owen quelques vêtements, cela avait été en échange de bœufs et d'ivoire, et que si le Capitaine croyait pour cela avoir reçu donation de ces terres, il était dans une complète erreur.

4. Que lui et les siens s'étaient toujours regardés comme des sujets du Portugal; qu'ils possédaient un monument commémoratif en pierre et un drapeau Portugais; et que même, avant de se rendre à bord du navire de ce Capitaine, ils avaient prévenu le Gouverneur Portugais.

5. Et qu'ils demandaient un détachement pour protéger le drapeau Portugais, sur le territoire du Tembe,² contre toute insulte.

Dans le but de rendre cette déclaration plus authentique et comme en cette circonstance se trouvaient dans la baie deux goëlettes Anglaises qui avaient pour subrécargue un nommé Macuard, ce dernier fut invité par le Gouverneur ainsi que d'autres Anglais alors dans la baie, à assister à cette solennité afin que la déclaration du régule ne pût être plus tard regardée comme fictive ou comme extorquée par la violence.³

Les Anglais vinrent assister à cette cérémonie, mais ils refusèrent d'en signer le procès-verbal, ce qui fut constaté par le greffier dans ce même procès-verbal.

D'autre part, le Gouvernement Portugais, prévenu de ces événements par le Gouverneur de Mozambique, s'empessa d'envoyer, en date du 29 Mai, 1824, à son Ministre en Angleterre, le Comte de Villa Real, les instructions nécessaires pour protester contre les violences pratiquées par le Capitaine Owen et demander une juste réparation.⁴ Ces instructions furent répétées le 7 du mois d'Août de la même année et accompagnées de toutes les pièces sur lesquelles s'appuyait la réclamation; ⁵ le 15 Avril et le 21 Octobre, 1826⁶ ainsi que le 17 Mars et le 28 Avril, 1827,⁷ ces mêmes instructions furent renouvelées au Marquis de Palmella.

Le 17 Juin, 1826, le Marquis de Palmella, Chargé d'Affaires du Portugal près la Cour de Londres, adressa une note à Sir George Canning, Ministre des Affaires Etrangères, note dans laquelle il protestait contre l'attentat commis par le Capitaine Owen, et en demandait réparation. Le Ministre Anglais répondit qu'il attendait, pour s'éclairer sur les faits énoncés, l'arrivée du Capitaine Owen, qui devait avoir lieu⁸ prochainement, et, le 25 Avril, 1827, sa réponse fut que le Capitaine Owen s'était justifié de son procédé par le doute où il était à l'égard du droit que possédait le Portugal sur les deux districts de Tembe et de Mapouto, qui avaient été, disait-il, cédés à l'Angleterre par leurs régules respectifs; le Ministre concluait en demandant des informations sur les droits que la Couronne Portugaise pouvait avoir sur ces districts.

Le Chargé d'Affaires de Portugal à Londres répondit, le 23 Mai suivant, que les droits de la Couronne Portugaise s'appuyaient: sur la priorité incontestable de la découverte; sur le fait de l'établissement de nos factoreries défendues par le fort de Lourenço Marques; sur les conventions ou actes de reconnaissance multipliés depuis de nombreux siècles par les chefs des peuples de la côte qui avaient toujours accepté la souveraineté du Portugal; sur la reconnaissance constante de ce droit par les Gouvernements Européens qui l'avaient toujours respecté, comme il était facile de s'en

¹ Document No. 32.

² Document No. 34.

³ Document No. 47.

⁴ Document No. 48.

⁵ Document No. 49.

⁶ Documents Nos. 50 et 51.

⁷ Documents Nos. 52 et 53.

⁸ Documents Nos. 54 et 55.

assurer par le simple examen des cartes géographiques; et enfin, sur l'Article II du Traité du 28 Juillet, 1817, par lequel la Grande Bretagne elle-même reconnaissait la souveraineté du Portugal sur la côte orientale d'Afrique, depuis le Cap Delgado jusqu'à la Baie de Lourenço Marques.

En outre, dans ses notes du 23 Mai, 1827, et du 22 Mai, 1828, notre Chargé d'Affaires réfuta l'argument basé sur ce que les Anglais nommaient des cessions faites par les régules du Tembe et de Mapouto; il démontra que ces cessions étaient subreptices; il produisit différentes copies d'Actes et de Déclarations authentiques et d'ancienne date qui prouvaient les relations de souveraineté existant entre la Couronne Portugaise et les susdits régules et, parmi ces pièces enfin, il fit valoir les déclarations déjà mentionnées des régules de Tembe et de Mapouto, déclarations par lesquelles ils reconnaissaient non seulement que le Portugal était seul maître de leurs terres, mais encore qu'ils n'auraient pu en faire don à Sa Majesté Britannique puisqu'elles appartenaient au Roi de Portugal.

Lord Dudley, qui remplaça Mr. Canning au Ministère des Affaires Etrangères, répondit le 5 Décembre, 1827, à la note de notre Ministre datée du 22 Mai de la même année, et, ne pouvant faire prévaloir ses arguments, il tenta de soutenir que, pour ce qui regardait le Traité de 1817, lorsque dans ce Traité on avait reconnu notre souveraineté dans l'Afrique orientale depuis le Cap Delgado jusqu'à la Baie de Lourenço Marques, au sud, cela n'avait pas été *inclusivement*, c'est-à-dire que la baie n'avait pas été comprise dans cette reconnaissance de notre territoire.

Dans sa note du 28 Mai, 1828, notre Ministre détruisit victorieusement l'interprétation du Ministre Anglais, et fit ressortir que, par le Traité où il était dit que nos possessions s'étendaient depuis le Cap Delgado jusqu'au sud de la Baie de Lourenço Marques, on ne pouvait en aucune manière entendre en exclure la baie, qu'elle y était naturellement comprise, et cela d'autant plus clairement que la Couronne Portugaise y possédait de nombreux établissements depuis plusieurs siècles.¹

La question en resta là; le Gouvernement Britannique ne répondit jamais à la note du 22 Mai, 1828, qui réfutait celle de Lord Dudley, il garda le silence pendant trente et trois années jusqu'à ce que, en 1861, ses agents recommencèrent, contre tous les principes du droit et même de la courtoisie, une tentative de véritable usurpation qu'il est nécessaire de rapporter.

Section 2. — *Seconde Epoque* (1861-1869).

Le Commissaire Portugais de la Commission Mixte du Cap de Bonne-Espérance avait communiqué au Gouvernement de la Métropole, dans ses dépêches officielles du 20 Mars et du 22 Juin, 1855, que le Gouvernement de la Colonie Anglaise manifestait le désir de posséder une partie de la Baie de Lourenço Marques et que le Gouverneur du Cap, Sir George Grey, formait, disait-on, le projet de visiter la baie.²

Ces bruits, qui alors ne se traduisaient pas par des faits, se renouvelèrent cinq ans plus tard avec plus de raison d'être, attendu que les événements vinrent bientôt en confirmer la valeur.

Le Contre-Amiral de la Marine Anglaise, Henry Keppel, commandant le navire "Brisk," ayant jeté l'ancre dans la Baie de Lourenço Marques le 27 Juillet, 1860, envoya le jour suivant une dépêche officielle au Gouverneur Portugais et au Gouverneur-Général de Mozambique, leur déclarant que l'Angleterre regardait comme lui appartenant le territoire situé au sud de la même baie,³ à quoi le Gouverneur-Général répondit le 7 Août en maintenant le droit du Portugal, mais en exposant que toute contestation à cet égard devrait être soumise aux Gouvernements des deux pays.⁴

Le 2 Novembre, 1861, le "Cape Argus," journal du Cap, publiait que le navire de guerre "Narcissus," de l'Amiral Walker, avait quitté la Colonie à direction de la Baie de Lourenço Marques, dans le but d'aller y arborer le drapeau de la liberté. ("So the vessel, it is said, is only gone to plant the flag of freedom on the shores of Delagoa Bay").

Dans une dépêche officielle du 12 du même mois, le Commissaire Portugais de la Commission Mixte du Cap prévenait le Gouvernement de ce bruit.⁵

¹ Documents Nos. 56 et 57; "Dépêches et Correspondance du Duc de Palmella," réunies et publiées par J. J. dos Reis e Vasconcellos, tome iii, Lisbonne, 1854, p. 154 et suivantes.

² Documents No. 58 et 59.

³ Document No. 60.

⁴ Document No. 61.

⁵ Document No. 62.

Les événements vinrent justifier cette nouvelle car, d'après une dépêche du 4 Octobre adressée par le Duc de Newcastle au Gouverneur du Cap, le "Narcissus," sous le commandement du Capitaine Biskford, entra effectivement dans la baie et, le 5, faisait le simulacre de planter un drapeau sur l'Île de l'Unhaca, après quoi il se retirait sans faire d'autres démonstrations.

Le 25, le journal officiel du Cap publiait une nouvelle annonçant que ce jour là le drapeau de la Grande Bretagne avait été arboré sur les Îles de l'Unhaca et des Eléphants, qui venaient d'être déclarées Possessions Anglaises et annexées à la Colonie de Natal !

Le Commissaire Portugais de la Commission Mixte protesta immédiatement contre ce fait dans sa dépêche officielle du 5 Décembre qu'il adressa au Gouverneur du Cap ; celui-ci lui déclara, dans sa réponse, que sa réclamation allait être envoyée au Gouvernement de Sa Majesté Britannique.¹

En outre, ce Gouverneur déclara verbalement au Commissaire Portugais que son Gouvernement *avait agi avec le consentement du Gouvernement Portugais* en annexant ces îles à la Colonie de Natal ; et M. Pritchard, Secrétaire de l'Amirauté, montra dans une lettre adressée le 10 Août au Commissaire,² qu'il était dans la même persuasion au sujet d'un accord entre les deux Gouvernements. De tous ces faits le Commissaire Portugais donna connaissance au Gouvernement de Sa Majesté Très-Fidèle dans une dépêche officielle datée du 21 Décembre.³

Le Comte de Lavradio, Ministre de Portugal à Londres, protesta sans retard au nom de son Gouvernement, dans une note datée du 22 Février, 1862,⁴ dont réception lui fut accusée le 28 du même mois, par Lord John Russell, qui lui déclara en même temps que le Ministre de Sa Majesté Britannique à Lisbonne communiquerait au Gouvernement Portugais la réponse de l'Angleterre au sujet de sa réclamation.⁵

Cette note diplomatique fut précédée d'une conférence qui eut lieu le 21 entre Lord John Russell et le Comte de Lavradio, conférence dans laquelle Lord John Russell déclara verbalement à notre Ministre que les Îles de l'Unhaca et des Eléphants étaient *nécessaires* au Gouvernement Anglais pour *réprimer la traite des nègres*. Le Comte de Lavradio fit part de cette conférence au Gouvernement Portugais dans sa dépêche du 25 Février.⁶

Le 17 Mars, 1862, Sir Arthur G. Magenis, Ministre de Sa Majesté Britannique, répondit à la note envoyée le 22 Février par le Ministre de Sa Majesté Très-Fidèle à Londres, en essayant de justifier le procédé de son Gouvernement, basé d'une part, sur ce que le territoire, au sud de la baie de Lourenço Marques où se trouvaient situées les deux îles, appartenait à la Couronne d'Angleterre en vertu des Traités faits en Mars et Août 1823 par le Capitaine Owen avec les régules de Tembe et de Mapouto, et, d'autre part, sur ce que le Gouvernement Anglais, en s'emparant des îles susdites, n'avait d'autre but que celui d'empêcher la traite des noirs dans les possessions Portugaises.

Et il ajoutait qu'on ne pourrait pas lui opposer :

1. L'Article II du Traité entre le Portugal et l'Angleterre, qui représente la baie de Lourenço Marques comme l'extrémité sud des possessions Portugaises dans l'Afrique Orientale ; attendu que la baie de Lourenço Marques, à laquelle ce Traité fait allusion n'est point la baie de Lourenço Marques ou Delagoa Bay, mais bien la petite baie ou anse du fleuve du Saint Esprit qui fait face à l'établissement Portugais placé sur la rive nord de ce fleuve.

2. Le fait de l'existence d'un établissement Portugais au sud, sur le territoire du Tembe ; attendu que pour avoir cet établissement les Portugais donnaient au Roi un présent ou un cens annuel (*fôro*) ; et encore parce que, si les Portugais avaient regardé la rive sud comme leur appartenant, ils n'auraient point fait leur principal établissement sur la rive nord.⁷

Section 3.—Troisième Epoque (1869-1871).

Dans une dépêche officielle du 4 Avril, 1869, le Consul-Général de Portugal au Cap communiquait au Ministre des Affaires Etrangères que le bateau-à-vapeur "Peterel" était revenu mystérieusement de *East London*, port de Cafrerie, dans la baie de Lourenço Marques, et que lui, Consul, soupçonnant que ce voyage n'avait pas été

¹ Documents Nos. 63 et 64.

² Document No. 65.

³ Document No. 66.

⁴ Document No. 67.

⁵ Document No. 68.

⁶ Document No. 69.

⁷ Document No. 70.

uniquement entrepris dans un but de croisière, avait appris d'un officier de la Marine Anglaise que des ordres transmis de Londres au Commodore de la station navale lui enjoignaient d'envoyer un bateau-à-vapeur "prendre possession des terres de Tembe et de Mapouto" au sud de la baie.¹

Le Chargé d'Affaires de Portugal à Londres, Figanière Morão, protesta le 21 Juin, et demanda des explications au sujet des ordres singuliers de Lord Clarendon.² Dans une note du 27 Août, 1869, le Ministre Anglais déclara à notre Chargé d'Affaires "que le Gouvernement Britannique, non plus que les autorités Anglaises du Cap, n'avait donné aucun ordre relativement à une prise de possession de ces territoires."³

A l'occasion de la négociation entamée entre le Portugal et la République du Transvaal, négociation qui aboutit au Traité du 29 Juillet, 1869, dans lequel les limites sud des possessions Portugaises sont placées sous le 26° 30' (comprenant ainsi toute la Baie de Lourenço Marques), l'Angleterre renouvela diplomatiquement l'exposé de ses prétentions à la partie sud de la baie, dans les notes de son Ministre à Lisbonne du 25 et du 26 Avril, et de son Chargé d'Affaires, de Mai 1871, auxquelles le Gouvernement Portugais répondit dans une note du 3 Juillet suivant.⁴

Le même Chargé d'Affaires répliqua dans sa note du 17 Juillet, et déclara que, en vertu d'une dépêche officielle de Lord Granville, son Gouvernement ne reconnaissait au Portugal aucun droit sur la partie méridionale de la baie.⁵

En cette occurrence, et comme il convenait aux deux parties de terminer pour toujours ce différend d'une manière honorable et au moyen d'un arbitrage, comme cela avait déjà été proposé dans les notes du 5 Janvier et du 3 Février, 1869, du Marquis de Sá da Bandeira, adressées au Ministre Anglais à Lisbonne, Sir Charles Murray, le Gouvernement Britannique décida enfin à accepter cette proposition, ainsi que cela fut communiqué par le Ministre Anglais dans sa note du 28 Septembre, 1871, après quoi eurent lieu les formalités nécessaires pour arriver au choix et à l'acceptation de l'arbitre et à la signature du Protocole du 25 Septembre, 1872.

Conclusions de ce chapitre :

1. L'Angleterre conteste au Portugal la partie méridionale de la baie, c'est-à-dire, les territoires de Tembe et de Mapouto depuis la rive sud du fleuve de Saint Esprit jusqu'à la pointe sud de la baie formée par les Iles de l'Unhaca et des Eléphants ;

2. Le Portugal affirme que ces territoires lui appartiennent, que la baie entière est sienne, et que sa souveraineté s'étend, par conséquent, jusqu'au 26° 30' ;

3. Les prétentions de l'Angleterre à la souveraineté de la partie méridionale de la baie se sont manifestées à trois époques ;

4. Le différend a été suscité par de certains Traités en date de Mars et d'Août 1823, que le Capitaine Owen, de la marine Anglaise, assura avoir fait avec les régules de Tembe et de Mapouto, et contre lesquels protestèrent immédiatement les régules et le Gouvernement Portugais ;

5. Notre réclamation contre les nombreuses violences du Capitaine Owen fut tellement énergique que la dernière note de notre Chargé d'Affaires à Londres, du 22 Mai, 1828, resta sans réponse ;

6. Le Gouvernement Anglais qui, depuis cette date (22 Mai, 1828) avait gardé, pendant trente-trois années, le plus profond silence à cet égard, déclara les Iles de l'Unhaca et des Eléphants annexées à la Colonie de Natal, et par une dépêche officielle du Duc de Newcastle, en date du 4 Octobre, 1861, il y fit arborer le drapeau Anglais, tout en laissant croire aux autorités Anglaises qu'il agissait ainsi avec le consentement du Gouvernement Portugais ;

7. Ce simulacre de prise de possession eut lieu le 5 Novembre de cette même année 1861, et se borna à l'action de planter dans l'Unhaca le drapeau Anglais, qui disparut presque aussitôt ;

8. Le Gouvernement Portugais protesta sans retard contre ce fait, et la tentative de l'Angleterre au sujet des Iles de l'Unhaca et des Eléphants n'eut pas d'autres suites ; quant aux territoires de Tembe et de Mapouto, les Anglais n'eurent même pas l'idée d'en prendre possession, comme le déclara Lord Clarendon le 27 Août, 1869 ;

9. A l'occasion enfin du Traité fait entre le Portugal et la République du Transvaal (Traité dans lequel notre droit fut reconnu jusqu'au 26° 30'), l'Angleterre en 1871, renouvela ouvertement ses prétentions à toute la partie méridionale de la baie ;

10. Par le Protocole du 25 Septembre, 1872, il fut enfin résolu que ce différend serait soumis à un arbitrage ;

¹ Document No. 71.

² Document No. 72.

³ Document No. 73.

⁴ Documents Nos. 74 à 76.

⁵ Document No. 77.

QUATRIÈME PARTIE.

Titres sur lesquels s'appuient les droits du Portugal à la partie contestée de la Baie de Lourenço Marques.

Les droits de la nation Portugaise à la partie contestée par la Grande Bretagne dans la Baie de Lourenço Marques, ainsi qu'à toute la baie, s'appuient principalement et subsidiairement sur les suivants titres :

1. La *découverte* et l'*exploration* de la baie par les Portugais au seizième siècle.
 2. L'*occupation* et la *possession* de la baie pendant trois siècles.
 3. La *nature* même de la baie, qui forme l'accès du territoire occupé par les Portugais, et qui ne leur est pas contesté.
 4. La *donation* faite par l'Empereur du Monomotapa au commencement du septième siècle.
 5. La *donation* faite par le régule de Tembe.
 6. La *reconnaissance* expresse des régules ou Chefs des tribus respectives de Tembe et de Mapouto.
 7. La *reconnaissance* des droits du Portugal par les nations de l'Europe.
 8. La *reconnaissance* de ce droit par le Gouvernement Anglais lui-même.
- Ces titres font l'objet des chapitres qui divisent cette quatrième partie.

Chapitre I.—*Priorité de la découverte et de l'exploration de la Baie par les Portugais au seizième siècle.*

Personne ne conteste la priorité de la *découverte* et de l'*exploration* de cette baie au seizième siècle ainsi que des fleuves et des territoires qui en dépendent.

A cette époque, la *découverte*, selon les idées *alors* en vigueur, était un titre légitime d'*acquisition* de droit ; c'est pourquoi la valeur de ce titre doit être jugée d'après les principes juridiques admis à la même époque.¹

Les titres de presque toutes les nations aux territoires possédés par elles en Europe, dit Wheaton, dérivent, dans leur origine, des conquêtes postérieurement confirmées par une longue possession et par les rapports internationaux auxquels tous les pays ont pris successivement part. Leurs droits aux territoires découverts par Christophe Colomb dans le nouveau monde et à ceux qu'elles occupent en Asie et en Afrique, dérivent aussi originairement de la *découverte*, de la *conquête* et de la *colonisation* pendant le seizième siècle et les suivants.

D'après les idées en vigueur parmi les nations de l'Europe aux cinquième et seizième siècles, les peuples payens qui habitaient les contrées nouvellement découvertes étaient considérés comme appartenant légitimement aux conquérants Chrétiens de ces mêmes contrées : ceci était, à cette époque, une maxime de politique et de droit ; c'est pourquoi dans toutes les guerres, tous les traités ou toutes les conventions motivées par les ambitions rivales des différentes nations de l'Europe, et ayant pour l'objet la possession de territoires sur le continent Américain, les droits des Indiens étaient complètement mis de côté ou abandonnés à la discrétion des Etats auxquels ces Indiens étaient livrés par les Conventions des différentes Puissances.

L'Angleterre reconnaissait et admettait alors ce principe ou ce titre de droit. Les lettres patentes données par Henri VII à Jean Cabot et à ses descendants les autorisaient, en qualité de ses vassaux ou lieutenants, à découvrir toutes les îles, pays ou provinces appartenant à des infidèles, à les soumettre et à les occuper.

La Reine Elisabeth autorisait également Sir Humphrey Gilbert à découvrir et à occuper toutes les contrées ou îles habitées par des peuples payens et non déjà placés sous la domination de princes ou de peuples Chrétiens. Selden, dans son "*Mare Clausum*," alla même jusqu'à vouloir déduire de ce principe que Gilbert, ayant parcouru l'océan et étant entré dans le port de Saint-Jean, à Terre-Neuve, avait, par ce fait, acquis, à la Grande-Bretagne, le domaine de la mer qu'il avait parcourue.²

La découverte étaient tellement, au moment de sa réalisation, un titre de droit, que ce titre a été invoqué au siècle dernier et même pendant le siècle actuel.

Les Etats-Unis appuyèrent principalement leurs prétentions au territoire de l'Orégon sur : la découverte du fleuve Columbia par le Capitaine Gray, de Boston, en 1792 ; l'exploration du cours de ce fleuve depuis sa source jusqu'à la mer, par les Capitaines Lewis et Clarke en 1805 et 1806 ; la priorité de l'occupation des ports de ce

¹ Sur les théories alors en vigueur, voyez, entre autres, Serafim de Freitas, "*De Justo Imperio Lusitanorum Asiatico*," Valladolid, 1625.

² De Rayneval, "*De la Liberté des Mers*," Paris, 1811, tome ii, pages 40 et 98.

territoire par des citoyens Américains ; l'acquisition, enfin, par le Traité de 1819 fait avec l'Espagne, de tous les titres que cette Puissance avait à la possession de ce territoire, titres basés sur sa découverte par des sujets Espagnols.

En vertu encore de la découverte, les Etats-Unis prirent, le 19 Novembre, 1813, possession de la Nouvelle-Beevah, île à laquelle le Capitaine Américain David Porter, donna le nom de Maddison.¹

Par la même raison, et parce que la valeur du titre doit être appréciée d'après le droit en vigueur à l'époque de l'acquisition de ce droit, la priorité de la découverte fut considéré comme un titre légitime lors du différend soulevé entre le Portugal et l'Angleterre au sujet de l'île de Boulama dans la Guinée, et admise comme une des bases du jugement arbitral rendu le 21 Avril, 1870 en faveur du Portugal par le Président des Etats-Unis : " And it appearing that the said Island of Bolama, and the said mainland opposite thereto, were discovered by a Portuguese navigator in 1446," &c.²

Ce jugement ayant été prononcé entre les *même* parties qui plaident aujourd'hui leur cause auprès du Président de la République Française, établit un droit entre elle et par conséquent l'Angleterre ne peut contester que la priorité de la découverte soit un titre à la propriété de la baie de Lourenço Marques, puisque cette priorité de découverte a été ainsi considérée par le jugement prononcé à l'égard de l'île de Boulama.

Et contre ceci on ne peut objecter que la décision du Président des Etats-Unis dans cette question entre le Portugal et l'Angleterre constitue seulement chose jugée quant au *dispositif* et non quant aux *motifs* de la sentence ; les motifs objectifs de toute sentence appartenant intégralement à son dispositif et, comme la sentence, constituant chose jugée.

Cette doctrine déjà soutenue par Boehmer et par d'autres jurisconsultes a été dernièrement appuyée de l'autorité du célèbre Savigny.³

Chapitre II.—Occupation et possession pendant trois siècles.

Nous n'ignorons pas qu'en droit international les occasions pratiques d'appliquer les principes de la possession et de la prescription sont rares aujourd'hui et qu'à notre époque, la démonstration du droit de propriété internationale repose sur d'autres bases.

La prescription acquisitive du droit privé ne peut être aujourd'hui invoquée comme elle l'était souvent par les Princes à l'époque où les territoires extrêmement divisés formaient pour eux une propriété *patrimoniale* et donnaient lieu à des contestations comme celles, par exemple, qui furent soumises à la décision du Parlement de Paris entre la maison d'Autriche et le Roi de Pologne au sujet de la Bohême et d'une partie de la Moravie, et qui étaient relatives à la succession de l'Empereur Sigismond.

Toutefois la possession remplit de nos jours un rôle important dans le droit international. Trois principaux systèmes partagent les jurisconsultes et les écrivains qui s'occupent de droit.

Les uns (et telle est la doctrine la plus générale, professée par Wheaton)⁴ entendent que la possession *pendant longtemps* d'un territoire par une nation exclut par elle-même le droit de toute autre en vertu d'un assentiment général, lequel assentiment se considère, ou comme un contrat tacite ou comme un droit positif et respecté par toutes les nations qui ne pourraient agir autrement sans compromettre leurs propres droits aux territoires qu'elles occupent : " L'usage constant et approuvé de nations," dit-il, " montre que quel que soit le nom qu'on donne à ce droit, la possession non interrompue par un Etat d'un territoire ou de tout autre bien pendant un certain laps de temps, exclut les droits de tout autre Etat à cet égard." ⁵

D'autres reconnaissent la possession internationale comme titre de droit à peine applicable à quelque partie d'un territoire occupé dans des régions lointaines ou à la fixation de limites.

Enfin d'autres n'admettent pas cette possession comme titre de droit, mais seulement comme considération subsidiaire ou confirmative d'autres titres de propriété.⁶

Sous quelque aspect, toutefois, que nous envisagions la possession internationale,

¹ " Miscellen aus der neusten ausländischen Litteratur," Leipzig, 1814, p. 577 et suivantes.

² Document No. 78.

³ " Exercit. ad Pandect.," tome v, p. 534, § 18 : " Equidem rationes decidendi virtualiter sententiæ inesse credentur, cum contineant fundamenta, quibus judex motus sententiam eo quo factum est modo tulit, adeoque eandem vim cum ipsa sententia habere videntur."

⁴ " Traité du Droit Romain," tome vi, Paris, 1849, §§ 291-294.

⁵ " Eléments de Droit International," tome 1, partie 2, chap. 4, § 4.

⁶ Ortolan, " Domaine International," Paris, 1851, p. 131.

elle est en faveur du Portugal soit comme titre de droit indépendant de tout autre, soit comme considération subsidiaire et confirmative des autres titres.

La possession Portugaise réunit toutes les conditions juridiques relatives à la nature et à la durée de la possession, parce qu'elle est fondée en titre, qu'elle a toujours été exercée à titre de propriété, et qu'elle est publique et continue.

Elle est fondée en titre parce qu'elle provient de la découverte et de l'occupation, ce qui au seizième siècle constituait un titre d'acquisition du domaine international.

Elle a été exercée à titre de propriété (*animo domini*) parce que, depuis trois siècles, nous occupons comme propriétaires la baie de Lourenço Marques, affirmant notre droit et notre souveraineté, l'appuyant d'une forteresse et de fortifications, et la défendant lorsqu'elle était attaquée ainsi qu'elle le fut par les Autrichiens dans le siècle dernier, comme nous l'avons déjà dit plus haut.

Nous n'avons pas été détenteurs précaires ou au nom d'autrui ayant interverti notre titre de possession. Si nous eussions occupé la baie à titre de secours et de protection donnés aux régules, ou si nous l'eussions prise comme hypothèque d'une créance quelconque, ainsi que les firent les Vénitiens qui occupèrent Mantoue pour garantir les quatre millions prêtés à Henri de Gonzague, Duc de Mantoue, ou ainsi qu'en usa le dernier Duc de Bourgogne, Charles-le-Téméraire, recevant en hypothèque de l'Empereur Frédéric III, l'Alsace et une partie de la Forêt-Noire, nous ne pourrions invoquer cette occupation ni nous en prévaloir; mais notre possession de Lourenço Marques a toujours été exercée à titre de *souveraineté*.

Elle a été *publique*, parce qu'elle s'est toujours manifestée par des actes publics et connus de tous.

Elle a enfin *continue* parce qu'elle n'est pas constituée par des actes passagers, intermittents ou transitoires, mais par une occupation permanente pendant trois siècles et par l'exercice constant de notre *souveraineté* dans toute la baie.

Et que l'on ne vienne pas dire, pour contester notre possession, que nous n'avons pas actuellement des établissements dans toute la partie sud de la baie. (*Tembe et Mapouto*.)

En premier lieu, si nous acceptons la discussion sur le point de la possession matérielle du territoire, nous répondrons que, pour conserver la possession de toute la baie, il n'était point nécessaire de la couvrir, toute, d'établissements.

1. Parce que, suivant la doctrine de Dioclétien et de Maximien, dans la Const. 4, Cod. *de acquir. posses.*: "Licet possessio nudo animo adquiri non possit, tamen solo animo retineri potest . . . ;" d'où ils concluent: "Si ergo prædiorum desertam possessionem non delinquendi affectione, transacto tempore non coluisti, sed . . . culturam eorum distulisti, præjudicium ex transmissi temporis injuria generari non potest;" principe qui est passé dans la jurisprudence moderne et qui est enseigné par Troplong: "La possession n'a pas besoin pour se conserver d'un fait corporel extérieur, l'intention suffit . . . elle persévère tant qu'une volonté contraire ne vient pas la détruire."¹

D'où il résulte que, quand même le Portugal n'aurait pas aujourd'hui un seul établissement dans la partie sud de la baie il n'en conserverait pas moins *solo animo* sa possession.

2. Parce que la possession ne s'exerce pas seulement au moyen d'établissements, mais aussi par l'exploitation des propriétés, suivant leur destination; et, abstraction faite des établissements, le Portugal a exercé sa possession dans toute la partie sud de la baie par la chasse à l'éléphant sur le territoire de Tembe et de Mapouto, pendant la saison propice, si bien que les chasseurs Portugais ont même poussé leurs excursions jusqu'aux terres de Panda, Roi des Zoulous; possession qui, selon le droit, ne s'exerce pas par des actes quotidiens, suivant la doctrine de Paul dans la Loi 3^e, § 11, Dig. *de acquir. posses.*, "Saltus hibernos, æstivosque animo possidemus, quamvis eos certis temporibus relinquamus."

3. Parce que la possession se conserve également au moyen de vestiges, car ils prouvent sa continuité surtout lorsque la volonté de non-abandon est manifeste; et ces vestiges sont encore bien visibles dans le *Tembe*, dans les ruines de notre premier fort dont l'existence n'est pas contestée, et dans le monument commémoratif que nous avons élevé sur ce territoire en 1796.

En effet, suivant Troplong,² la possession et sa continuité sont prouvées par des vestiges et des restes de constructions qui auraient jadis servi à la défendre, parce que

¹ De la Prescription, No. 263.

² De la Prescription, à l'Art. 2229 du Code Français, Nos. 384 et 550; Merlin, "Répertoire," 5^{ème} Prescription, section 1^{ère}. § 5, Art. 3. No. 3; Aubry et Rau sur Zacharie, tome ii, p. 78, note 23; Roux de Bretagne, "Traité de la Prescription," Paris 1861, tome i, p. 226.

les vestiges sont en quelque sorte des actes *permanents et continus* qui attestent l'existence du droit que l'on possède et sont autant de preuves que l'on n'abandonne pas ce droit.

C'est la même doctrine qui, longtemps auparavant, fut soutenue en France par d'Argentré¹: "Per signa enim talia . . . retinetur juris possessio: per signum enim retinetur signatum. Sunt enim ista actus permanentes et continui. . . . Quare consulunt auctores scolastici ut dirutis ædificiis, quam maxime pali, ridicæ et vestigia conservantur; quia in talibus consistit et conservatur possessio. . . . Quare manente signo, nemo libertatem contra habentem præscribit, propter retentionem possessionis in signo permanente."

4. Parce que la possession, à l'égard du territoire de *Mapouto* dont fait partie l'île de l'Unhaca, est prouvée par le fait de notre sortie de l'île, effectuée uniquement pour montrer notre respect envers l'arbitrage, fait qui démontre l'existence de la possession et de l'occupation antérieure.

Mais la discussion doit être principalement envisagée sous le point de vue de la *souveraineté*, qui est un droit, et par conséquent comme *possession de droits*, et dans ce cas nous répondrons:

1. Que le Portugal a exercé sa souveraineté sur toute la baie, y compris les territoires de *Tembe* et de *Mapouto*, chaque fois qu'il a eu besoin de la manifester, ainsi que cela a été démontré dans le Chapitre III de la troisième partie de ce mémoire.

2. Que, selon les principes de droit, consacrés par le Président Fabre et, plus récemment, par Troplong, la continuité de la possession des droits s'affirme par des actes réitérés de temps en temps, suivant la nécessité que nous avons de faire usage de ces droits.

"Jurium incorporalium quasi possessio (dit le premier²) in actibus discontinuis et inducitur et probatur per duos actus uniformes . . . et unus actus potest sufficere, si toto tempore quod hominum memoriam complectitur, non nisi semel casus evenerit, in quo uti jure suo actor potuerit, sive a quibus causam habet."

"Des actes réitérés de temps en temps (écrit le second³) à certains intervalles inégaux, conformément aux besoins de l'usager, suffiraient pour établir juridiquement la continuité."

3. Que ces mêmes principes sont reconnus par la Cour de Cassation de France, dans un arrêt du 5 Juin, 1839: "La possession (y est-il dit) s'exerce suivant la nature de l'objet auquel elle s'applique, et celle qui ne peut se manifester qu'à de certains intervalles par des faits distincts et plus ou moins séparés, n'en est pas moins continue par cela seul qu'elle a été exercée dans toutes les occasions et à tous les moments où elle devait l'être, et qu'elle n'a pas été interrompue, soit par la cessation absolue d'actes, soit par des actes contraires."⁴

Si pourtant (ce que l'on ne peut admettre que par pure hypothèse et toutes réserves faites) les deux premiers titres étaient périmés par l'abandon du Portugal, ainsi que le soutiennent quelques écrivains Anglais qui prétendent que le Portugal a abandonné la baie; qu'elle fut ensuite occupée par les Hollandais, puis abandonnée par eux pour être plus tard occupée par les Autrichiens, l'expulsion de ces derniers en 1781 aurait acquis aux Portugais, à titre de *conquête* affirmée par leur établissement jusqu'aujourd'hui et par la reconnaissance des régules, un nouveau droit sur la baie.

Chapitre III.— La Baie forme l'accès du territoire non contesté.

Indépendamment des considérations qui découlent de la découverte, de l'exploitation, de l'occupation et de la possession il en existe une autre qui, par la nature même de la baie, rend incontestable le droit du Portugal.

La baie de Lourenço Marques devait être forcement Portugaise, du moment où le Portugal possédait, à l'embouchure du fleuve du *Saint Esprit* qui s'y jette, un fort et un village, parce que, d'après le droit des gens, sont considérés comme dépendances d'un territoire les baies et les ports naturels ou artificiels qui forment l'accès de ce même territoire.

Cette doctrine, déjà reconnue par le droit Romain dans la L. 15 *Dig. de publicanis*,⁵

¹ "Sur Bretagne," Art. 368, pages 1549 et 1550.

² Code, liv. vii, tit. 7, def. 3.

³ "De la Prescription," No. 339.

⁴ Dalioz, 39, 1, 237; Le Roux de Bretagne, "Nouveau Traité de la Prescription en Matière Civile," Paris, 1869, tome i, p. 221 et suivantes.

⁵ Portus quoque, qui insulæ e-sent, omnes ejus insulæ esse viderentur.

a été transmise aux nations modernes et reçue par les publicistes et les codes de toutes les nations.

La France nous en fournit le premier exemple :

"Tout ce que nous avons dit des parties de la mer voisine des côtes" (écrit Vattel),¹ "se dit plus particulièrement et à plus forte raison des rades, des baies, et des détroits, comme plus capables d'être occupés, et plus importants à la sûreté du pays."

"Le territoire maritime de chaque Etat comprend les ports, baies, rades, golfes, embouchures des fleuves," dit Pradier-Fodéré en annotant ce passage de Vattel.²

"On doit ranger sur la même ligne que les rades et les ports, les golfes et les baies, et tous les enfoncements connus sous d'autres dénominations . . . lorsque l'entrée peut en être gouvernée par l'artillerie ou qu'elle est défendue naturellement par des îles, par des bancs ou par des rochers. Dans tous ces cas, en effet, il est vrai de dire que ces golfes ou ces baies sont en la puissance de l'Etat maître du territoire," &c. (écrit Théodore Ortolan).³

"Les parties de la mer qui pénètrent dans le territoire continental, tels que les golfes et les baies . . . appartiennent au territoire maritime," écrit le Baron Ferdinand de Cussy.⁴

Cette même opinion est soutenue par de Moreuil, qui ajoute : "En effet, il est certaines parties rapprochées des terres, participant en quelque sorte de leur condition, où ces causes cessent plus ou moins d'exister et où par conséquent, ces droits (de propriété et d'empire) peuvent avoir lieu," etc.⁵

"La pleine mer," écrit encore Eug. Ortolan,⁶ "n'est susceptible ni de propriété ni d'empire de la part d'une nation à l'égard des autres . . . Le même raisonnement ne serait pas exact quant aux parties plus restreintes de la mer, telles que les ports et les rades, les golfes et les baies . . . c'est ce qui forme le territoire maritime . . . Dans ces limites la nation exerce une possession réelle et permanente, elle est à même d'éloigner toute action étrangère."

En Italie, cette même doctrine est également professée par les jurisconsultes et les publicistes :

"Tout ce qui a été dit à l'égard des côtes de la mer doit se dire à plus forte raison des baies, détroits et ports, lesquels dépendent manifestement, ou plutôt font partie du pays qu'ils embrassent . . . J'ai dit à plus forte raison, parce qu'ils importent plus à la sûreté du pays," écrit le Comte Lucchesi Palli.⁷

Les Allemands n'élèvent aucun doute à l'égard de ce même principe :

"Au territoire maritime," dit Klüber,⁸ "appartiennent les districts maritimes ou parages susceptibles d'une possession exclusive, sur lesquels l'Etat a acquis (par occupation ou convention) et conservé la souveraineté. De ce nombre sont . . . 2^o les parties de l'océan qui s'étendent dans le territoire continental de l'Etat, si elles peuvent être dominées par le canon des deux bords, ou que l'entrée seulement puisse en être défendue aux vaisseaux (golfes, baies et cales)."

"Les dépendances d'un pays," dit Heffter,⁹ "en sont seules exceptées, et sont regardées comme telles . . . 2^o les ports et havres, soit artificiels soit naturels qui forment l'accès d'un territoire . . . Toutes les autres parties de la haute mer . . . sont complètement libres."

Parmi les Américains, il nous suffira d'indiquer Wheaton :¹⁰

"Par rapport aux ports, aux havres, aux baies . . . le droit de propriété exclusif d'un Etat peut être maintenu sans que pour cela les principes énoncés au sujet de la pleine liberté de la mer soient ébranlés. En effet, l'Etat dont le territoire est baigné par ces eaux a le pouvoir physique d'agir perpétuellement sur elles, et en même temps le droit d'en exclure tout autre Etat, deux choses qui constituent la possession."

Enfin l'Angleterre admet ce principe et en exagère même l'application en s'attribuant, par une extension de ses droits sur les eaux des côtes, une espèce de souveraineté ou au moins la jouissance exclusive de certaines parties de la haute mer, et en

¹ "Le Droit des Gens," liv. i, chap. 23, § 291.

² Vattel, "Le Droit des Gens," nouvelle édition par Pradier-Fodéré, Paris, 1863, tome i, p. 584.

³ "Règles Internationales et Diplomatie de la Mer," 4ème édition, Paris, 1864, tome i, p. 145.

⁴ "Dictionnaire ou Manuel-Lexique du Diplomate et du Consul," Leipzig, 1846, v. "Territoire Maritime," p. 692.

⁵ "Dictionnaire des Chancelleries Diplomatiques et Consulaires," Paris, 1855, tome 2, p. 125.

⁶ "Du Domaine International," Paris, 1851, p. 28 et suivantes.

⁷ "Principes du Droit Public Maritime," traduction de Galiani, Paris, 1842, p. 21.

⁸ "Droit des Gens Moderne de l'Europe," nouvelle édition, par. M. A. Ott, Paris, 1861, § 130.

⁹ "Le Droit International Public de l'Europe," Berlin, 1857, p. 159.

¹⁰ "Eléments de Droit International," tome , p. 179.

comprenant sous la dénomination de *King's chambers* les baies situées entre deux promontoires.¹

En admettant toutefois et par simple hypothèse que les Portugais n'eussent jamais eu d'autre établissement que celui qui est situé à l'embouchure du fleuve du *Saint-Esprit* (English River), la situation de la baie la constituait depuis le seizième siècle dépendance obligée du territoire dont elle formait l'accès, et cela d'autant plus que ni à cette époque ni dans les siècles suivants ce droit n'avait été contesté.

Chapitre IV.—*Donation faite par l'Empereur du Monomotapa.*

Si les titres que nous avons énumérés n'étaient pas par eux-mêmes suffisants pour légitimer les droits du Portugal, l'hommage prêté comme *vassal*, le 24 Mai 1629, au Roi de Portugal par l'Empereur ou Roi du Monomotapa, viendrait confirmer ces droits. Les domaines de ce souverain s'étendaient alors du nord au sud de l'Afrique orientale depuis le *Couama* ou *Zambèze* jusqu'aux petits royaumes voisins du Cap de Bonne-Espérance, comprenant ainsi la baie de Lourenço Marques même au delà du 26° 30'.

Le document qui se trouve dans les archives de l'Inde Portugaise,² relativement à cette vassalité, a été publié dans le "Bulletin du Gouvernement de l'Etat de l'Inde" et est annexé aux autres documents.³

La souveraineté du Roi du Monomotapa s'étendait au dix-septième siècle jusque sur la baie de Lourenço Marques; ce fait est confirmé par le témoignage des géographes et des historiens de cette époque :

Philippus Ferrarius dans le "Novum Lexicon Geographicum," de l'édition de Michel Antoine Baudrand, de 1695 : "Spiritus Sancti Fluvius (Fleuve du *Saint-Esprit*) Lusitanus fluvius Africae, in Aethiopia inferiori et in regione Monomotapa."⁴

Jean Jacob Hoffmann dans le "Lexicon Universale," édition de 1698 : "Spiritus Sancti Fluvius, (vulgo Rio de lo Spirito Santo), lusitanus fluvius Africae in Aethiopia inferiori et in regione Monomotapa."⁵

Corneille, dans le "Dictionnaire Universel, géographique et historique," édition de Paris, de 1708 :

"Cet empire s'étend du nord au sud, depuis le *Couama* jusqu'aux petits royaumes qui sont aux environs du Cap de Bonne-Espérance . . . Des petits rois . . . dont les États sont compris entre le Cap et le Magniça, reconnaissent le Roi de Monomotapa pour leur souverain."⁶

De sorte que, si le Portugal n'avait pas déjà acquis la souveraineté de la baie de Lourenço Marques, elle se trouverait comprise dans la cession faite en 1629 par le Roi du Monomotapa à la Couronne Portugaise.

Chapitre V.—*Donation faite par le régule Capella, du Tembe.*

La donation faite à la Couronne Portugaise en 1794 par le régule du *Tembe*, vient ajouter un titre spécial à ceux que nous avons déjà cités relativement au territoire de ce nom.

Ce régule ayant été détrôné à la suite d'une révolte de ses sujets du *Tembe* réclama, en qualité de vassal de la Couronne Portugaise, la protection du Gouverneur de Lourenço Marques, José Correia Monteiro de Mattos, qui rétablit son pouvoir.

Reconnaissant de ce service, le régule Capella, quoique déjà sujet et vassal de la Couronne Portugaise, voulut faire encore plus, et, le 10 Novembre 1794, en présence de ses conseillers et de ses parents, spontanément et de sa propre volonté il fit une donation au Portugal de ses terres dont le gouverneur prit immédiatement possession consacrée par serment du roi fait suivant les rites et usages du pays. Le greffier des finances royales, João Gonçalves de Sequeira, dressa du tout un acte authentique qui fut signé par les assistants.⁷

En signe de cette prise de possession, on éleva dans le *Tembe*, en 1796, une colonne aux armes de Portugal dont, en Octobre, 1823, l'existence a été attestée par le régule Maietta.⁸

¹ Hefter, "Le Droit International," Berlin, 1857, p. 160.

² Livre xiii das Monções, fol. 438.

³ "Bulletin," No. 29 du 15 Avril, p. 366 ; Document No. 67.

⁴ Tome ii, Pataviæ, 1695, p. 184.

⁵ Tome iv, Lugduni Batavorum, p. 240.

⁶ Paris, 1708, tome ii, p. 715.

⁷ Documents Nos. 80 et 81.

⁸ Documents Nos. 82 et 84.

Chapitre VI.—*Reconnaissance de notre Souveraineté par les régules du Tembe et du Mapouto.*

Comme actes de reconnaissance *expresse et solennelle* de la souveraineté Portugaise par les régules du sud de la baie, nous avons, de la part de celui du *Tembe*, qui en fut toujours le plus puissant :

1. L'acte pratiqué par le Roi Capella le 5 Avril 1781 devant le chef de l'expédition Portugaise envoyé dans la même année, de l'Inde, pour détruire l'établissement essayé par les Autrichiens dans la baie de Lourenço Marques, expédition dont nous avons déjà parlé.¹

2. L'acte renouvelé² par ce même régule à l'occasion de la donation faite à la Couronne Portugaise le 10 Novembre 1794 dans les mains du gouverneur de Lourenço Marques, José Correia Monteiro de Mattos, donation dont nous avons déjà fait une mention spéciale dans le chapitre précédent.³

3. Celui qui fut célébré par l'autre Capella, son petit-fils et légitime successeur Maietta, le 20 Octobre, 1823, en présence du Gouverneur Portugaise Miguel Lupi de Cardenas, et des grands et conseillers de sa cour à l'occasion de son installation au pouvoir, alors qu'il se déclara sujet et vassal de la Couronne Portugaise.⁴

4. Enfin, celui de l'actuel Capella, son successeur, nommé *Bacute*, quand, dans les premiers jours de 1857, il prit le Gouvernement de Tembe, et demanda sa confirmation au Gouverneur de Lourenço Marques, qui le fit installer au pouvoir avec toutes les formalités d'usage par un de ses délégués ; acte et cérémonie dont il fut rendu compte au Gouvernement Portugais dans un rapport en date de Mai 1857 par le Gouverneur-Général de Mozambique et qui fut notifié aux Cortès par le Marquis de Sá da Bandeira, alors Ministre de la Marine, dans son compte-rendu du 11 Mars, 1859.⁵

Quant au régule de *Mapouto*, le Portugal, outre la reconnaissance tacite, possède la reconnaissance expresse faite par le régule Macassana Maxilleme, le 8 Octobre, 1823, en présence du Gouverneur de Lourenço Marques, Miguel Lupi de Cardenas.⁶

Owen lui-même ou l'auteur des "Narratives of Voyages," reconnaît la vérité de ce que nous avançons : "The Captain (Owen) by the aid of some Mattolese, who speak a little Portuguese carried on a long conversation with Matchakany, who told him, amongst other things, that he considered the King of Portugal as his brother, the Portuguese having always been his friends."⁷

Il résulte de ce passage qu'Owen avoue avoir entendu dire à Macassana lui-même, qu'il était frère du Roi de Portugal et très ami des Portugais ; que le même Macassana parlait Portugais et que pour s'entendre avec lui, il avait été obligé de ce faire accompagner d'interprètes connaissant cette langue.

Ce régule est resté jusqu'à sa mort, qui eut lieu en 1850, dans l'obéissance du Portugal, et ces rapports d'amitié et de bonne harmonie se sont continués sous l'actuel régule Missongue ou Nasinguile, son petit-fils.

Et ce dernier est tellement attaché aux Portugais, qu'ayant eu connaissance du conflit soulevé entre l'Angleterre et Portugal à l'égard de l'île de l'Unhaca, il offrit, en 1870, au Gouvernement Portugais de lui faire une donation de la propriété territoriale de cette même île dont la souveraineté appartenait déjà à la Couronne Portugaise, donation qu'il fit, en effet, entre les mains du Gouverneur de Lourenço Marques, José Augusto de Sá e Simas.

Comme actes de reconnaissance *tacite* et conséquence de notre souveraineté, les régules nous ont envoyé et nous envoient chaque année, à titre de *tribut*, une certaine quantité d'ivoire et de cornes de rhinocéros femelle et quelquefois du bétail, et reçoivent de nous un *saguate* ou présent consistant en vêtements et eau-de-vie.

Le Gouverneur de Lourenço Marques, dans son rapport au Gouverneur-Général de Mozambique du 16 Juin, fait mention du tribut payé en 1795.⁸

L'ex-greffier de Lourenço Marques, dans sa plainte contre le Gouverneur-Général, fait mention du tribut payé dans ce siècle et avant 1823.⁹

Le Capitaine Owen fait lui-même mention du tribut consistant en 3 ou 400

¹ Document No. 27 (Annexé).

² Document No. 80.

³ Document No. 83.

⁴ Document No. 34.

⁵ Document No. 32.

⁶ "Narrative of Voyages to Explore the Shores of Africa, &c., under the Direction of Captain W. F. W. Owen," Londres, 1833, tome i, p. 262.

⁷ Document No. 84.

⁸ Documents Nos. 85 et 86.

dents d'éléphant qui fut envoyé par les régules du Tembe et de Mapouto en Octobre 1823, alors qu'ils déclarèrent ne vouloir reconnaître d'autre souveraineté que celle du Portugal : "A caravan consisting of about one thousand natives, arrived at the factory bringing between three and four hundred elephants' teeth."¹

Et ce qui est encore plus remarquable, c'est que *Chaca* lui-même, le célèbre et féroce Roi dès *Zoulous*, qui fit tant parler de lui lorsque, poussé par la soif des conquêtes, il parvint dans le nord jusque près de Lourenço Marques, fit solliciter l'amitié du Roi de Portugal et lui offrit d'être son tributaire.²

Enfin, la preuve la plus irrécusable de la reconnaissance de nos droits par les indigènes de *Mapouto* est ce nom même de *Mapouto* pour lequel le régule de ce territoire quitta celui d'*Unhaca* (qu'il prenait de l'île de ce nom comprise dans ses domaines) et qui fut également donné au fleuve *Anzete* (*Umzuti*).

En effet, *Mapouto*, dans la langue d'un grand nombre des peuplades de l'Afrique occidentale et orientale, signifie Portugais ou blancs, comme le reconnaît le Révérend S. W. Koelle, dans sa "Polyglotta Africana."³ Ainsi, par exemple, dans l'Afrique occidentale, près de Saint-Sauveur du Congo, on trouve le village de *Banza-pouto*, qui est un village Portugais, et toutes les peuplades de cette région donnent au Roi de Portugal le nom de *Mani-pouto*.

De sorte que territoire ou fleuve de *Mapouto* signifient territoire ou fleuve des Portugais ou du Roi des Portugais, désignation des plus significatives puisqu'elle provient des indigènes.

L'auteur des "Narratives of a Voyage" traduit le mot *Mapouto* que les Anglais prononcent *Mapoota*, par le mot *huile*, ce qui dénonce une complète ignorance attendu que *huile* en langue Cafre se dit *Mafourra* et non *Mapoota*.

Chapitre VII.—Reconnaissance des droits du Portugal par les nations de l'Europe.

La reconnaissance des droits du Portugal et de sa possession en Afrique ressort du témoignage que fournissent tous les documents géographiques, de celui qui émane des écrivains et aussi du fait de la non-contestation de ces droits par les autres nations.

Section 1.—Documents géographiques.

Des ouvrages géographiques à partir du seizième siècle, ouvrages déjà produits au Chapitre II. de la Première Partie de ce Mémoire, consacré à la dénomination de la baie de Lourenço Marques et qu'il est inutile de reproduire, il résulte évidemment :

1. Que la baie, dans toute son étendue, est, par ces ouvrages, considérée comme Portugaise ;

2. Que, par conséquent, les limites de la possession Portugaise au sud de la baie se trouvent nécessairement par 26° 30'.

Section 2.—Ecrivains Français.

Parmi les écrivains Français du dix-huitième siècle nous citerons :

1. Guillaume Delisle, Premier Géographe du Roi de France, lequel, dans la carte du Congo et du pays des Cafres qui fait partie de son atlas géographique, écrivait en 1722 la note suivante, au dessous de l'île de l'*Unhaca*, à peu près au 26° 30' : "Inhaque où commence le Gouvernement de Mozambique ;"⁴ reconnaissant ainsi que toute la baie de Lourenço Marques, en y comprenant l'île de l'*Unhaca* et le territoire de ce nom jusqu'à ce parallèle, faisait partie de la province Portugaise de Mozambique.

2. De La Martinière, écrivant en 1768, reconnaît positivement que cette baie se trouve comprise dans le territoire Portugais puisqu'il dit que le Gouvernement ou province de Mozambique commence en terre ferme de l'*Unhaca* : "Inhaque . . . en terre ferme et près de l'isle de ce nom. . . . C'est où commence le Gouvernement de Mozambique."⁵

3. Saint-Janvier, dans son "Atlas Universel," publié à Venise en 1786 (2^{ème} partie,

¹ "Narrative of Voyages to Explore, &c.," tome ii, p. 20.

² Document No. 85. *Chaca* ou *Chaka*, fils d'*Uenzangakona* et d'*Umnandi*, naquit en 1787, et mourut assassiné le 23 Septembre, 1828. Les querelles de son père avec sa mère l'obligèrent à se réfugier avec celle-ci chez les *Amatevas*, dont le chef était *Udingisvayo*. Il y vécut jusqu'à la mort de son père en 1817 ou 1818, époque à laquelle il retourna au territoire des *Zoulous*, qu'il agrandit. Dans l'Appendice iii nous donnons comme spécimen de la littérature de *Zoulous* une notice biographique de *Chaca* et la liste des Rois *Zoulous*.

³ London, 1854, p. 144.

⁴ "Carte du Congo et du Pays des Cafres," Paris, 1722.

"Le Grand Dictionnaire Géographique," tome iii, Paris, 1768, p. 505, v. *Inhaque*.

pl. 39) confesse que notre domaine commence à l'Unhaca, puisqu'il reconnaît l'existence de nos fortifications sur ce point : "Baie de Laurent Marques ou du Saint-Esprit, où est le fort Inhaque aux Portugais."

Dans le siècle actuel :

1. Malte-Brun, dans sa géographie universelle, édition de Th. Lavallée:¹ "La côte Africaine depuis la baie de Lagoa (Lourenço Marques) jusqu'au Cap Delgado est censée appartenir aux Portugais, qui y ont en effet quelques établissements . . . on y trouve deux établissements Portugais : celui de Lourenço Marques dans la baie de Lagoa ; celui d'Inhambane," etc.

2. Horner, dans la relation de son voyage à la côte orientale d'Afrique² :— "Oubliée de l'Europe pendant le moyen âge, cette contrée fut, en 1498, visitée pour la première fois par Vasco da Gama. Le grand navigateur se rendit maître d'une partie de la côte, et se contenta de faire reconnaître le Roi de Portugal comme suzerain des roitelets du pays."

Hoefer, malgré ses graves inexactitudes sur l'Afrique australe, écrit toutefois :— "Les indigènes ont . . . entretenu un trafic suivi avec les Portugais qui avaient établi un port et un comptoir dans la Baie de Lagoa. Les principaux objets de commerce étaient, comme aujourd'hui, la poudre d'or, les dents d'éléphant, et l'ambre gris, la cire et la gomme."³

Ecrivains Allemands et Suisses.

Parmi les écrivains Allemands nous citerons le Baron de Puffendorf, qui indique l'étendue de nos domaines jusqu'à l'Unhaca :—"Les Portugais ont au midi un fort qu'on appelle Inhaca."⁴

Parmi les écrivains Suisses nous mentionnerons :—

1. Dans le dix-septième siècle, le philologue Jean Jacques Hoffmann qui, dans son "Lexicon Universale," tant dans l'édition de Bâle de 1667 que dans celle de Leyde de 1698, fait figurer le fleuve du Saint-Esprit comme fleuve Portugais, ce qu'il n'aurait pas fait si nous eussions été considérés comme uniquement possesseurs d'une partie de la baie : "Spiritus Sancti Fluvius ; vulgo (rio de lo Espirito Santo), lusitanus fluvius Africæ in Æthiopia inferiori."⁵

2. Dans le dix-huitième siècle, le polygraphe Béranger qui, dans sa réédition de la géographie de Busching, indique l'Unhaca comme point de départ de nos domaines :—"Vers le sud les Portugais possèdent le fort d'Inhaque."⁶

Ecrivains Italiens.

Parmi les écrivains Italiens du dix-septième siècle nous citerons Philippe Ferrari, de l'ordre des servites, lequel, dans son "Lexicon Geographicum" publié à Milan après sa mort par Jean Como, en 1627, et réimprimé plus tard avec additions par Baudrand, à Paris en 1670 et à Padoue en 1695, désigne, ainsi qu'Hoffmann, le fleuve du Saint-Esprit comme fleuve Portugais, ce que certes il n'aurait pas fait s'il ne nous eût considérés comme légitimes maîtres de la Baie de Lourenço Marques :—"Spiritus Sancti Fluvius, (rio del Espirito Santo), lusitanus fluvius Africæ in Æthiopia."⁷

Ecrivains Anglais.

Parmi les écrivains Anglais nous citerons :—

Au dix-huitième siècle :—

1. Salmon, qui écrivait en 1755, en se rapportant à Sofala, qu'en effet les Portugais possédaient le commerce de toute la côte : "And indeed they have the trade of the whole coast almost to themselves."⁸

Au dix-neuvième siècle :—

1. Le Lieutenant-Colonel Southerland qui, parlant des prétentions des Hollandais sur la baie vers la fin du dix-septième siècle, confesse que cette baie est depuis plus de

¹ "Géographie Universelle," Paris, 1857, tome vi, p. 321.

² "Voyage à la Côte Orientale d'Afrique, &c.," Paris, 1872, p. 19.

³ "Afrique Australe," Paris, 1848, p. 133 : "Annales Maritimes" de Février, 1844.

⁴ "Introduction à l'Histoire Moderne," édition de Grâce, Paris, 1759, tome viii, p. 226.

⁵ "Lexicon Universale, Historiam Sacram et Profanam, &c., explanans," Lugd. Batav., 1869, tome iv, p. 240.

⁶ "Suite de la Géographie de Busching," tome x, Lausanne, 1782, p. 90.

⁷ "Novum Lexicon Geographicum," Pataviae, 1695, tome ii, p. 184.

⁸ "The Universal Traveller," London, 1755, tome ii, p. 428.

deux cents ans propriété du Portugal : "In the possession of the Portuguese for the last 200 years."¹

2. L'auteur d'un article du journal du Cap, le "Standard and Mail," du 21 Août, 1869, que reconnaît le droit du Portugal à la partie méridionale de la baie, conformément au Traité entre le Gouvernement Portugais et la République de Transvaal, fait par le Chevalier Duprat, Plénipotentiaire Portugais, ainsi qu'on le voit dans le "Cape Argus," du 7 Septembre :—"The 'Standard' of the 21st August gave a remark on Chevalier Duprat's Treaty of Commerce with the Vaal River Republic; and seems to believe that the Chevalier had a right to grant the south-west side of Delagoa Bay to the Boers, on the ground that the cession made to Captain Owen had never been ratified."

3. Dans la séance de la Société Géographique de Londres, du 13 Novembre, 1871, et à l'occasion de la lecture du journal de l'exploration du Limpopo par Frédéric Elton, un membre de la Société fit observer qu'il était fâcheux pour le commerce Anglais que les navires de cette nation qui faisaient le voyage du Cap n'eussent pas un port entre Simon's Bay et Delagoa Bay (Lourenço Marques), et que, en conséquence, il demandait que l'Angleterre étendît ses possessions jusque là : "He therefore recommended that England should extend her south African possessions to that bay."

Le président de cette société, Major-General Sir Henry C. Rawlinson, applaudissant à ces desirs, déclara qu'il était à craindre que des considérations internationales ne missent obstacle à leur réalisation, attendu que la *Baie de Lourenço Marques était en possession des Portugais*, anciens et intimes alliés d'Angleterre : "But he was afraid this was hardly consistent with a due regard to international considerations, as Delagoa Bay happened to be in the possession of our old and intimate allies the Portuguese."²

4. Charles C. Michell, lieutenant-colonel de l'armée Anglaise, et Inspecteur-Général des territoires du Cap de Bonne-Espérance, écrivant au Duc de Palmella, Ministre Portugais, en date du 15 Juillet, 1843,³ joignit à sa lettre une esquisse indiquant les frontières des colonies Anglaises au Cap, celles du territoire occupé par les Boers révoltés et celles de la colonie Portugaise de Lourenço Marques : par cette esquisse (qui forme la carte No. 3 annexée à ce mémoire) on voit que ce fonctionnaire Anglais comprend dans le domaine Portugais "non-seulement toute la Baie de Lourenço Marques, mais plus encore que ne réclame le Portugal quisqu'il porte nos frontières au delà du 26° 30' de latitude sud.

De sorte qu'un fonctionnaire Anglais respectable, et remplissant une charge importante, reconnaissait en 1843 comme propriété du Portugal plus que cette nation ne réclame comme lui appartenant !

5. Enfin le rédacteur du journal Anglais "The Diamond News and Griqualand West Government Gazette," publié en Afrique dans les champs des Diamants à *De Beer's New Rush, South Africa Diamond Fields*, écrivant dans le numero du 13 Mai de cette année (1873) sur la nécessité et l'importance pour l'Angleterre de l'acquisition de la Baie de Lourenço Marques, reconnaît notre possession et notre droit, en soutenant l'avantage d'obtenir du Portugal la cession de la baie : "It is the easiest thing in the world (dit-il) to prove to England that Delagoa Bay will turn out a good investment for the necessary expenditure to induce Portugal to transfer that port to Great Britain."

Si la baie n'était pas Portugaise, comment le Portugal pourrait-il la céder à la Grande Bretagne ?

Section 3.—Gouvernements.

Notre droit a été reconnu par tous les Gouvernements de l'Europe. Les uns l'ont reconnu expressément, les autres tacitement.

La reconnaissance *tacite* de ce droit s'est traduite par le respect de notre possession pendant plus de trois siècles.

Il a été reconnu *expressément* :—

1. Par l'Autriche, alors que, réclamant en 1781 contre l'expulsion des agents de la compagnie impériale qui avaient été abusivement établie un comptoir dans la Baie de Lourenço Marques, elle se déclara satisfaite de nos explications.⁴

2. Par le Saint-Siège, attendu que le Roi de Portugal ayant demandé au Pape

¹ "Memoir respecting the Kaffirs, Hottentots, and Bosjesmans of South Africa," imprimé au Cap de Bonne Espérance, tome i, p. 312.

² "Proceedings of the Royal Geographical Society," col. xvi, No. 2, Février 1872.

³ Document No. 87.

⁴ Deuxième partie, chap. 3.

Paul V la création de la prélature ou administration épiscopale de Mozambique démembrant dans ce but partie du territoire appartenant à l'archevêché de Goa, dans l'Inde, le Saint-Père, par sa bulle du 21 Janvier, 1612, *In supereminenti militantis Ecclesiæ*,¹ accéda à la demande du roi et lui désigna le territoire de la nouvelle prélature, qui s'étendait alors au sud jusqu'au Cap de Bonne Espérance, et dans lequel se trouve comprise la Baie de Lourenço Marques. Les Portugais ayant abandonné le Cap de Bonne Espérance qui, au dix-septième siècle, fut occupé par les Hollandais, la *Colonie du Cap* fut seule séparée de la prélature de Mozambique, et resta soumise au régime ecclésiastique du vicaire apostolique de l'Ile Maurice jusqu'à la création d'un Vicariat Apostolique spécial érigé par Grégoire XVI suivant bref Papal, *Ex Munere Pastoralis* du 6 Juin, 1837.² De même le territoire de Zanzibar au nord, qui n'appartient déjà plus au Portugal, constitue une Mission Spéciale séparée de la prélature de Mozambique qui s'étend aujourd'hui du Cap Delgado, au nord, jusqu'à Lourenço Marques au sud, inclusivement.

3. Par la République Africaine du Sud ou République du Transvaal, qui a reconnu positivement notre possession jusqu'au 26° 30' par l'Article 23 du Traité du 29 Juillet, 1869.³

Chapitre VIII.—Reconnaissance de nos droits par le Gouvernement Anglais.

A tout ce que nous avons exposé vient se joindre la reconnaissance par le Gouvernement Anglais lui-même de nos droits et de notre possession des terres découvertes dans l'Afrique Occidentale et Orientale, reconnaissance qui date du seizième siècle, ainsi que nous allons le démontrer par les faits suivants.

1. Au commencement d'Avril, 1561, l'Ambassadeur Portugais, Manuel de Araujo, se plaignit à la Reine Elisabeth d'Angleterre, au nom du Roi don Sébastien, de ce que quelques navires Anglais étaient allés trafiquer sur la côte Del-Mina, ce qu'ils n'auraient pas dû faire attendu que les Provinces d'Afrique découvertes par les Portugais, ainsi que leur commerce et leur navigation, étaient la *légitime propriété* du Portugal, propriété acquise par les prédécesseurs de don Sébastien au prix de grands sacrifices d'argent et de sang, et qui n'avait jamais été disputée à la nation Portugaise par aucun Souverain.⁴

Cette réclamation eut pour résultat la promulgation de la lettre patente d'Elisabeth d'Angleterre du 24 Avril, 1561, où elle disait que, quoiqu'il ne lui parût pas juste que l'on empêchât ses sujets de naviguer vers les terres soumises au Roi de Portugal, elle désirait avertir les Anglais de *s'abstenir d'envoyer leurs navires dans les ports de l'Afrique, qui se trouvaient sous la domination du Roi de Portugal*.⁵

La Reine donna cet ordre le 1^{er} Mai de la même année, dans une lettre adressée au Grand Amiral (*High Admiral of England*) ;⁶ ce qui fut communiqué au Roi de Portugal par une lettre du 22 Novembre suivant.⁷

2. Un certain Grinvil ayant, en 1571, sollicité du Gouvernement Anglais la permission d'armer des navires, elle lui fut accordée sous condition *qu'il ne pourrait faire aucune découverte dans les contrées déjà visitées par les Espagnols et les Portugais*, fait qui fut communiqué au Gouvernement Français par La Mothe Fénélon, Ambassadeur de France en Angleterre, dans une dépêche datée du 4 Juin, 1571.⁸

3. Dans l'Article 12 du Traité du 29 Juin, 1642, fait entre Don Jean IV de Portugal et Charles I d'Angleterre, la Grande-Bretagne reconnaît expressément la souveraineté de la Couronne Portugaise sur la côte qui s'étend *au-delà* du Cap de Bonne-Espérance, où se trouve comprise la Baie de Lourenço Marques :—

"Item quod conventio treguae facta inter D. Michaelem de Noronham, Comitem de Linhares, Proregem Goae et Willielmum Methwold, Praesidem Anglorum in India Orientali 20 Januari, 1635, stilo novo, inter subditos utriusque regis in India Orientali, et in omnibus ditionibus serenissimi Regis Portugalliae ultra Caput Bonae Spei, continuabitur et observabitur."⁹

4. L'Angleterre a reconnu positivement nos droits sur la Baie de Lourenço Marques dans la Convention du 28 Juillet, 1817, additionnelle au Traité du 22 Janvier,

¹ Document No. 88.

² "Bullarium Pontificium Sacrae Congregationis de Propaganda Fide," tome v, Romæ, 1841, p. 160.

³ Document No. 9.

⁴ Musée Britannique, "Bibliothèque Cottonienne," Nero B, 135.

⁵ "State Papers Office," liasse 1 de Portugal.

⁶ "State Papers Office," liasse 1 de Portugal, Document No. 7.

⁷ Musée Britannique, "Bibliothèque Cottonienne," Nero B. 1 ff. 97.

⁸ "Correspondance Diplomatique de La Mothe Fénélon," publiée par Cooper, tome xvi, p. 127.

⁹ Borges de Castro, "Collecção de Tratados, Convenções, &c., entre a Corôa de Portugal e as Mais Potencias," tome i, Lisbonne, 1856, p. 82.

1815, dans laquelle, par l'Article II, la souveraineté Portugaise sur tous les territoires compris entre le Cap Delgado et la Baie de Lourenço Marques est expressément reconnue.

“ Les territoires (dit le texte Portugais) que la Couronne de Portugal possède sur les côtes d'Afrique au sud de l'Equateur, savoir : sur la côte orientale d'Afrique, le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques, etc.

“ The territories (dit le texte Anglais) possessed by the Crown of Portugal upon the coast of Africa to the south of the Equator, that is to say : upon the eastern coast of Africa the territory laying between Cape Delgado and the Bay of Lourenço Marques, etc.”

A cet argument irréfutable tiré de l'Article 2 de la Convention de 1817, l'Angleterre a opposé :

1. En réponse aux notes diplomatiques du Duc de Palmella (1827-1828) : que la baie de Lourenço Marques, en tant que limite sud des possessions Portugaises devait s'entendre *exclusivement*.

2. Dans une note de son Chargé d'Affaires à Lisbonne : que les mots *baie de Lourenço Marques* ne désignent pas véritablement la baie de ce nom (*Delagoa Bay*), mais bien la petite baie située devant l'établissement Portugais sur le fleuve du *Saint-Espirit* (*English River*).

La première objection est inadmissible, attendu que, non-seulement l'Angleterre ne pourrait seule décider au sujet de l'interprétation du Traité, puisqu'il constitue un contrat bilatéral, mais aussi parce que, si elle le faisait, cette interprétation serait inacceptable à cause de son absurdité et de la contradiction qu'elle renferme :

1. Parce que la désignation de la baie de Lourenço Marques comme limite sud des possessions Portugaises dans l'Afrique orientale, ne peut pas s'entendre autrement que *inclusivement*, de même que la désignation du Cap Delgado comme limite nord a toujours été comprise *inclusivement* par toutes les nations et par l'Angleterre elle-même.

2. Parce qu'il eût été impossible de sous-entendre ce mot *exclusivement*, car le Portugal n'aurait pas en ce cas signé un Traité qui l'aurait ainsi dépossédé de toute cette baie où, depuis plus de trois siècles, il avait établi sa souveraineté ;

3. Parce que l'Angleterre, réclamant *seulement* la partie *sud* et ne contestant pas au Portugal la souveraineté de son établissement et de sa forteresse *au nord*, lui reconnaît contradictoirement un droit sur une moitié de la baie, alors que, en présence de la lettre du Traité, ou il a droit à *toute* la baie (si l'on accepte, comme cela doit être, le mot *inclusivement*), ou bien il n'a droit à *aucune* partie de cette baie (si l'on sous-entend, ainsi que l'exige l'Angleterre, le mot *exclusivement*) ;

4. Parce que toutes les nations, reconnaissant aujourd'hui notre droit et notre souveraineté sur la baie de Lourenço Marques, confirment ainsi la seule interprétation possible du Traité. L'on peut indiquer, comme la preuve la plus récente de cette reconnaissance, le Traité de Commerce et de limites fait avec la République des Boers, le 29 Juillet, 1869, traité dans lequel les limites sud de notre territoire sont fixées par une ligne droite tirée du 26° 30' de latitude sud.

5. Parce que, la disposition du Traité étant claire et précise, on ne peut admettre aucune interprétation restrictive de sa lettre, suivant la règle enseignée par Wolf : “ *Standum omnino est iis quae verbis expressis, quorum manifestus est significatus, indicata fuerunt, nisi omnem a negotiis humanis certitudinem removeare volueris,*”¹ et répétée par Vattel : “ Quand un acte est conçu en termes clairs et précis, quand le sens en est manifeste et ne conduit à rien d'absurde, on n'a aucune raison de se refuser au sens que cet acte présente.”²

La seconde objection n'a pas une plus grande valeur :

1. Parce que cette seconde objection est en contradiction avec la première ; attendu que, tandis que d'après le système de la première objection les mots *baie de Lourenço Marques* sont pris comme équivalents de *Delagoa Bay* pour être entendus *exclusivement*, d'après celui de la seconde ces mots ne sont déjà plus les équivalents de *Delagoa Bay* et désignent à peine l'insignifiante baie ou anse qui se trouve en face de l'établissement Portugais sur le fleuve du Saint-Espirit !

2. Parce que les mots *baie de Lourenço Marques* ayant toujours désigné la baie à laquelle les Anglais ne commencèrent à donner le nom de *Delagoa Bay* qu'en 1823 (ainsi que nous l'avons démontré au Chapitre II. de la première partie) ces mots doivent être forcément compris, dans la Convention de 1817, dans le sens qui leur

¹ “ Jus natur.,” part. vii, not. 822.

² “ Le Droit des Gens,” liv. ii, chap. xvii, § 263 ; Grotius, “ De Jure Belli ac Pacis,” lib. ii, chap. xvi ; Rutherford's, “ Institut.,” ii, chap. xii ; Klüber, “ Droit des Gens Moderne de l'Europe,” §§ 163 et 328, &c.

était alors et qui leur fut toujours appliqué, ce qui constitue encore une règle d'interprétation des traités, formulée par Vattel:¹ "Le nom des pays . . . doit s'entendre suivant l'usage reçu alors . . . car on ne présume point que des ignorants ou des sots soient chargés d'une chose aussi importante."

3. Parce que l'Angleterre, si elle ne voulait pas se servir de ces mots dans l'unique acception qu'ils avaient à cette époque, aurait dû s'en expliquer, et comme elle ne l'a pas fait, elle devra en subir les conséquences, ainsi que l'enseigne la règle de Vattel: "Si celui qui pouvait et devait s'expliquer nettement et pleinement ne l'a pas fait, tant pis pour lui; il ne peut être reçu à apporter subséquemment des restrictions qu'il n'a pas exprimées;"² ce qui n'est que l'application de la maxime du droit Romain: "Pactionem obscuram iis nocere, in quorum fuit potestate legem apertius conscribere."³

5. La reconnaissance expresse de notre souveraineté sur la baie de Lourenço Marques, contenue dans l'Article 2 de la Convention du 28 Juillet, 1817, se trouvait déjà sous-entendue dans le Traité du 19 Février, 1810, puisque l'Article 24 de ce Traité assurait aux Anglais le commerce avec les possessions Portugaises de la côte orientale d'Afrique: "All trade with the Portuguese possessions situated upon the eastern coast of the continent of Africa . . . which may have been formerly allowed to the subjects of Great Britain, is confirmed and secured to them."⁴

Pour les deux Gouvernements, cette généralité des mots *possessions Portugaises de la côte orientale* comprenait la baie de Lourenço Marques; pour le Gouvernement Portugais, parce que, ayant alors la possession de cette baie et s'y trouvant établi, il ne doutait en aucune façon de son droit, et pour le Gouvernement Anglais, parce qu'il n'élevait aucune prétention à la baie ou à une partie de la baie.

Si la Grande-Bretagne ou une autre Puissance quelconque eût contesté au Portugal son droit, cette déclaration eût forcément été faite avec les réserves nécessaires, comme cela eut lieu à l'égard d'autres territoires disputés, dans l'Article 15 de l'autre Traité fait à la même date avec cette nation et annulé par l'Article 3 du Traité signé à Vienne le 22 Janvier, 1815.

Dans cet Article 15, il fut en effet déclaré que ses clauses n'invalideraient pas ou n'affecteraient en aucune façon les droits de la Couronne Portugaise aux territoires de Cabinda et de Molembo dans l'Afrique occidentale et à ceux d'Ajuda et d'autres points sur la côte de la Mine.⁵

Et pourquoi une semblable déclaration ne fut-elle pas faite au sujet de la baie de Lourenço Marques que nous avons en notre possession? Parce que personne, ni même l'Angleterre, ne mettait en doute notre droit.

Il y a plus: dans ce même Article 2 de la Convention faite avec l'Angleterre le 28 Juillet, 1817, où la baie de Lourenço Marques était expressément désignée comme formant l'extrémité sud des possessions Portugaises dans l'Afrique orientale, il n'était fait aucune réserve au sujet de cette baie tandis que, dans le n° 2 de cet article, on faisait, comme dans le Traité de 1810, une réserve au sujet de Cabinda et de Molembo.

6. Encore dernièrement la Grande-Bretagne a reconnu le droit du Portugal. Panda, Roi des Zoulous, se plaignit en 1855, de ce que les chasseurs Portugais de Lourenço Marques, poursuivant les éléphants au sud de la baie, s'avançaient de son côté au point d'envahir les forêts qu'il s'était réservées sur son territoire, et il pria le Gouverneur Anglais du Cap de Bonne-Espérance, Sir George Grey, de demander au Gouvernement Portugais qu'un pareil fait ne se renouvelât pas, ce que le Gouverneur fit dans une dépêche officielle datée du 28 Février, 1855, et adressée au Commissaire Portugais de la Commission Mixte du Cap.⁶

On sait que Panda est un régule indépendant avec lequel l'Angleterre a fait un Traité en 1843,⁷ et dont le territoire est situé entre les possessions Anglaises du Cap et de Natal, et la partie sud de la baie de Lourenço Marques.

Or, si la partie sud de la baie de Lourenço Marques, par laquelle les chasseurs Portugais envahissaient les terres de Panda, avait appartenu à l'Angleterre et non au Portugal, les autorités Anglaises auraient-elles eu recours aux autorités Portugaises pour empêcher un pareil fait? évidemment non; si l'Angleterre eût

¹ Loc. cit., § 271, et liv. vi, chap. iii, § 33.

² Loc. cit., § 264.

³ L. 39, Dig. "De Pactis" et L. 21 "De Contrah. Emptione."

⁴ Document No. 89.

⁵ Document No. 90.

⁶ Document No. 91 et annexes.

⁷ Document No. 92.

considéré comme sienne la partie sud de cette baie, elle eût trouvé en elle-même les moyens d'empêcher la violation des terres de Panda.

7. Enfin le droit du Portugal a été reconnu par les autorités du Cap elles-mêmes alors que, en 1861,¹ à l'occasion des réclamations de notre représentant au Cap à l'égard de l'annexion et du simulacre de prise de possession de l'Unhaca, ces autorités déclaraient que tout cela s'était fait avec le *consentement et l'approbation du Portugal* (!), approbation qui supposait nécessairement notre droit.

CINQUIÈME PARTIE.

Réfutation des prétentions de l'Angleterre.

L'Angleterre réclame la souveraineté de la partie sud de la baie, c'est-à-dire, des territoires de Tembe et de Mapouto, en y comprenant les îles de l'Unhaca et des Eléphants. Elle appuie ses prétentions :—

1. Sur la cession qu'elle prétend que les respectifs régules lui ont faite de ces territoires en 1823, par l'entremise du Capitaine Owen de la marine Britannique.

2. Sur le désir de mettre obstacle à la traite des nègres et d'encourager tout commerce licite dans la baie de Lourenço Marques.

Le principal de ces arguments est le premier, l'autre n'est que subsidiaire. Examinons la valeur de chacun d'eux.

Chapitre I.—*Examen du premier argument présenté par l'Angleterre (Conventions faites avec les régules en 1823).*

Ce premier et principal argument présenté par l'Angleterre comme base de ses prétentions à la partie sud de la baie de Lourenço Marques et tiré des Traités faits avec le régule du Tembe le 8 Mars, et avec celui du Mapouto le 3 et le 23 Août 1823, n'a aucune valeur :—

1. Parce que ces Traités, considérés dans leur forme et dans leur fond, sont fictices :—

2. Parce que, quand même ils ne seraient pas fictices, ils n'en seraient pas moins nuls dans la *forme* et dans le *fond* ;

3. Parce qu'ils ne pourraient produire aucun effet favorable aux prétentions de l'Angleterre.

Développons chacun de ces points.

Section I.—*Les Traités sont fictices.*

La fausseté des Traités se démontre par des arguments extrinsèques et intrinsèques ou que l'on déduit de ces documents mêmes.

Elle se démontre par des arguments extrinsèques :—

1. A l'égard des deux régules de Mapouto et de Tembe, par leur déclaration faite en Octobre 1823,² protestant immédiatement contre les prétendues conventions qu'ils nièrent formellement avoir faites.

2. Spécialement à l'égard du régule de Tembe, par la déclaration faite le 1 Juin, 1823, par le Commandant des Forces Navales Britanniques au Cap, Joseph Nowe, qui disait qu'Owen avait reçu les pièces portant la cession faite par le régule Capella, *des mains du chef Slangella* ;³ d'où il résulte, de l'aveu des Anglais eux-mêmes, que ce ne fut pas le Roi Capella en personne (lequel comme nous l'avons vu, nie la cession) qui remit le document au Capitaine Owen ni qui traita avec lui, mais bien un chef subalterne, ce qui, en se combinant avec la protestation du Roi, est une preuve de plus de la fausseté de ce document ou d'une mystification faite au Capitaine Owen.

Les arguments intrinsèques que l'on déduit de ces documents mêmes prouvent jusqu'à l'évidence que ces documents sont faux ; ces arguments découlent de la *langue* dans laquelle sont rédigés ces documents, de la *signature* des régules, de la *manière dont leurs noms sont écrits*, et de *quelques-unes de leurs dispositions*.

De la langue dans laquelle ils sont rédigés :—

1. Parce que la cession du Tembe figure dans ces documents comme ayant été faite spontanément et écrite par le régule Capella le 8 Mars, envoyée à Owen et

¹ Documents Nos. 63-66.

² Documents Nos. 32-34.

³ Document No. 38.

acceptée par ce dernier le 19 du même mois; or, comme il est certain que le Roi n'écrivait pas l'Anglais, langue inconnue dans le Tembe, l'impossibilité où il était de rédiger un document en Anglais ou de le faire écrire dans cette langue qu'il ne comprenait même pas devient donc évidente.

2. Parce que les deux traités à l'égard de Mapouto sont écrits en Anglais; or, il est avéré que le régule Macassana n'avait aucune connaissance de cette langue et ne parlait que le Portugais, ainsi que l'avoue Owen, lui-même, puisqu'il dit que, lorsqu'il avait à s'adresser au régule, il employait comme interprètes des noirs qui parlaient Portugais: "The Captain (Owen) . . . by the aid of some Mattollese, who spoke a little Portuguese . . . carried on a long conversation."¹

3. Parce que la langue Portugaise étant très répandue dans la baie, il était tout simple que les régules qui comprenaient cette langue et l'employaient aussi bien que leurs sujets, s'en servissent dans cette circonstance.

De la signature des régules :

1. Parce qu'il est dit dans ces documents qu'ils ont été signés par les régules, alors qu'il est avéré que ni eux ni leurs prédécesseurs savaient écrire.

2. Parce que les régules sont dans l'usage d'ajouter à leur nom écrit par celui qui dresse un contrat, un simple signe dont nous donnons le fac-simile.²

De la manière dont leurs noms sont écrits :

1. Parce que la signature du régule de Tembe, telle qu'elle se trouve dans le *Traité*, est *Kapel*, ainsi que les Anglais désignent le titre du roi, alors que ce titre s'écrit et se prononce comme en Portugais, *Capella*, ce qui prouve que quelques Anglais sont les seuls auteurs et de la signature et du document.

2. Parce que la signature du Chef de Mapouto est écrite à la manière Anglaise, *Makasane*, tandis que ce nom s'écrit et se prononce *Macassana*.

De quelques-unes de leurs dispositions :

1. Parce que, dans le préambule du *Traité* fait avec le Tembe, le régule Maietta Capella se donne le titre de roi des territoires compris entre le *English River* et *Dundas*, et le fleuve *Mapouto*; or il est inadmissible que le roi ait pu donner le nom de *English River* au fleuve du Saint-Esprit et celui de *Dundas* au fleuve de Lourenço Marques, son confluent, noms par lesquels les indigènes n'ont jamais désigné ces fleuves.

2. Parce qu'aucun des lecteurs de l'Article 11 de ce supposé contrat ne pourra croire qu'un régule des tribus à moitié sauvages du Tembe ait eu, en 1823, la velléité d'imposer, comme condition de la cession de ses terres, l'établissement du jury (jurymen) en matière civile et criminelle sur son territoire, à une époque où un grand nombre des nations civilisées n'avaient pas encore implanté chez elles cette institution ? !

Disons la vérité : les documents nommés actes de cession ou contrats ne sont que des pièces controuvées par le Capitaine Owen ou par quelque Anglais qui aura voulu le mystifier.

Ce qui est certain, c'est que les régules n'ont rien fait, n'ont rien signé.

Owen leur assura qu'il leur enverrait par des navires Anglais beaucoup de marchandises et un grand nombre de présents, et, à chacun d'eux, il laissa un écrit en Anglais que, par méfiance, il ne voulaient pas recevoir. Owen les pressa de les accepter, leur déclarant que c'était la liste des marchandises qu'il leur destinait. Ces écrits n'étaient autre chose que les prétendus *Traités* ! tous commentaires sont superflus.

On ne doit certainement pas oublier ce que E. Ortolan écrit si judicieusement sur un pareil sujet : "Les Conventions qui doivent aboutir à un engagement de céder une portion du territoire sont d'une telle gravité, que, outre les règles communes pour toutes les Conventions, les lois de chaque nation ont assujéti celles-ci à des conditions particulières nécessaires à la validité de leur existence."³

Et l'Angleterre peut-elle soutenir que dans ces prétendus traités ont été observées les règles qu'elle suit elle-même lorsqu'elle traite avec d'autres peuples ?

¹ "Narratives of Voyages," tome i, p. 262.

² Document No. 93.

³ "Du Domaine International," p. 58.

Ceux qui liront le travail de Ferdinand Denis, "Notes sur les Traités chez les Peuples Sauvages," qui constitue l'Appendice 1 des "Etudes sur les Traités Publics chez les Grecs et chez les Romains," de Egger, Membre de l'Institut, ne pourront, en examinant les prétendus Traités faits par Owen, conserver le moindre doute sur leur nullité.

Section 2.—*Les cessions sont nulles dans la forme.*

Alors même que les traités avec les régules du Mapouto et du Tembe ne seraient pas une fiction, ils n'auraient aucune valeur juridique, ni dans la forme ni dans le fond.

Ils n'auraient aucune valeur dans la forme :

1. Parce que, d'après les principes du droit des gens, la validité d'un Traité dépend des pouvoirs du plénipotentiaire;¹ or, le Capitaine Owen, de la Marine Britannique, indépendamment qu'il n'était pas personnage public ayant *par sa position* qualité pour faire des Traités, n'avait, alors que ses fonctions le lui permittaient, aucuns pouvoirs du Gouvernement Britannique pour traiter avec les régules de la Baie de Lourenço Marques, circonstance qui rendrait les contrats doublement nuls dans la forme. Et, non-seulement il serait impossible au Gouvernement Anglais de prouver qu'Owen avait ces pouvoirs, mais encore les instructions qui lui furent données par l'Amirauté Anglaise en date du 4 Février, 1822, établissent le contraire, ces instructions se bornant à déterminer des études sur l'hydrographie de la côte orientale d'Afrique, comme on le voit à la page 6 et suivantes du tome i. de l'ouvrage déjà cité, "Narrative of Voyages, &c. under the Direction of Captain W. F. W. Owen : London, 1833."

2. Parce qu'alors même que cette nullité de forme pût être couverte par une ratification des deux Parties Contractantes, ce qui s'admet quelquefois en droit de gens,² cette ratification n'a eu lieu ni de la part de l'Angleterre ni de celle des régules du Mapouto et du Tembe qui ont, au contraire, immédiatement et spontanément déclaré, dans le courant de cette même année 1823, qu'ils ne reconnaissent d'autre souveraineté que celle des Portugais, déclaration qui rendait impossible et nulle toute ratification ultérieure de l'Angleterre.

3. Parce que l'acte pratiqué par Owen, quand il traita *sans qualité* pour le faire, ne peut même être assimilé aux simples *sponsiones* qui, lorsqu'elles *oultre-passent* le mandat des délégués des Gouvernements, peuvent être postérieurement rendues valides ; nous prendrons comme exemples de ces dernières, dans le dix-huitième siècle, la Convention de Reichenbach, de 1790,³ et celle qui eut lieu entre le Duc d'York et le Général Brune en 1799,⁴ et antérieurement, dans le seizième siècle, celle qui fut passée entre les Suisses et la Trémouille qui, pour sauver Dijon assiégée par eux, en 1513, renonça, au nom de Louis XII, au Duché de Milan, et s'obligea à payer 600,000 écus.⁵ De la part d'Owen il n'y a pas eu *excès*, mais bien *défaut* complet de pouvoirs.

4. Parce qu'alors même qu'Owen eût eu *pouvoirs* et *qualité* pour traiter, le régule Maietta ne les possédait pas en 1823 attendu que, suivant la loi et les coutumes du Tembe, le successeur du régule ne peut être proclamé qu'une année après le décès de son prédécesseur, ainsi que l'avoue lui-même le Capitaine Owen ;⁶ or le vieux Capella étant mort en Septembre 1822, Maietta ne pouvait faire cession le 8 Mars 1823, puisque l'année n'étant pas écoulée, il ne devait être proclamé régule et ne le fut, en effet, que le 20 Octobre suivant.⁷

De sorte que les prétendues conventions imaginées par le Capitaine Owen entre lui et les deux régules sus-nommés sont trois fois nulles dans la forme : par la manque de qualité personnelle et de pleins pouvoirs d'Owen, par l'impossibilité où elles se trouvaient d'être ratifiées et, enfin, par le manque d'autorité de Maietta en Mars, 1823.

Section 3.—*Les cessions sont nulles dans le fond.*

Les dites Conventions seraient nulles dans le *fond*.

1. Parce qu'elles n'ont pas signifié la *libre* expression de la volonté des régules, condition essentielle à la validité des conventions ou traités asservis, en général, aux règles *substantielles* des contrats.⁸

Et les régules ont prouvé que ces conventions n'étaient pas la libre expression de leur volonté (aussitôt qu'ils ont su que le Capitaine Owen assurait qu'ils s'étaient soumis à l'Angleterre) en signant le 8 Octobre de cette même année 1823, le document

¹ Grotius "De Jure Belli ac Pacis," lib. ii, cap. 11, § 12 ; I. Gerhard, "Dissertat. Academicæ," p. 4, No. 11 ; J. H. Lohman, "Dissertat. de Diverso Mandatorum Genere quibus Legati constituuntur," Lugd. Batav. 1750, cap. 4 ; Klüber, loc. cit., § 142, &c.

² Grotius, lib. ii, cap. 15, §§ 3, 16 et 17 ; Vattel, liv. ii, chap. 14, § 212 ; Eisenbach, "Diss. de Sponsionibus," Ien. 1723 ; de Martens, "Recueil," iv, 568 ; Klüber, § 142.

³ Martens, "Recueil a," tome iii, p. 174 ; b, tome iv, pp. 500 et 535.

⁴ Martens, *ibid.* tome vii, p. 353.

⁵ Guichardin, liv. xii, chap. 2 ; Watteville, "Hist. de la Confédération Helvétique," 2e partie, p. 185 et suivantes.

⁶ Voyez troisième partie, chap. 2, p. 51.

⁷ Documents Nos. 33 et 34.

⁸ Vattel, liv. ii, chap. 12, § 157 ; Martens, "Précis du Droit des Gens Mod. de l'Europe," tome i, § 43 et suivantes ; Klüber, "Droit des Gens Mod. de l'Europe," § 142 et 143.

par lequel ils déclaraient ne reconnaître pour suzerains de leurs terres que les Portugais, et n'avoir pu céder à Sa Majesté Britannique des terres qui depuis tant d'années appartenaient à la Couronne Portugaise;¹ quant au régule de Tembe, il marqua plus particulièrement qu'il désapprouvait les actes d'Owen, en arrachant de son propre mouvement le drapeau Anglais que le capitaine avait fait arborer sur son territoire.²

Les Anglais eux-mêmes avouent ce fait, mais ils veulent toutefois faire accroire que le Roi Maïetta du Tembe n'a nié cette cession que *contraint et obligé* par le Gouverneur Portugais de Lourenço Marques, Lupi de Cardenas, ainsi que l'avance l'auteur d'un article inséré en 1873 dans le journal Anglais "Ocean Highways, the Geographical Recorder," qui se publie à Londres:³ "Soon after this cession (dit-il), Senhor Lupi de Cardenas, the Governor of Lorenzo Marques, resolved to subjugate the whole of the surrounding country. His first measure was to induce Mayetta to deny the cession, which he effected by a threatening demonstration with a few soldiers. He then hoisted the Portuguese flag on the Tembi, and, subsequently, on the Umzuti."

Toutefois, cette explication que donnent les Anglais de la protestation des régules, qu'ils attribuent à la violence employée par le Gouverneur Portugais, ne s'appuie sur aucun argument sérieux :

1. Parce qu'elle se trouve en contradiction avec leur affirmation que les Portugais n'avaient *aucune force* dans ces régions.⁴ En effet, qui pourrait croire que le simple commandant du petit détachement qui se trouvait à Lourenço Marques, où l'influence Portugaise est plus morale que matérielle, eût pu forcer un régule qui dispose de plus de 20,000 hommes armés à protester contre une nation aussi puissante que l'Angleterre ?

2. Parce que cette explication se trouve démentie par cela même que les régules ont fait leur déclaration en présence des Anglais qui étaient à bord de deux navires alors dans la baie, et qui furent expressément invités à assister à cet acte.⁵

L'Angleterre ne put rien objecter aux protestations des régules de Tembe et de Mapouto, faites en 1823 :—

1. Parce que ces protestations ont immédiatement suivi les abus commis par le Capitaine Owen, dès que ces abus ont été connus.

2. Parce que les actes de cet officier n'avaient pas été ratifiés par le Gouvernement Britannique. Cette ratification d'ailleurs, eût-elle été possible, ne pouvait avoir lieu du moment qu'une des parties non-seulement s'y refusait mais encore réclamait et protestait contre la convention qui lui était attribuée.

3. Parce que du moment où le Gouvernement Anglais déclare hautement qu'aucune annexion de territoire, grand ou petit, ne peut avoir lieu sans le *consentement bien explicite des habitants demandant cette annexion*, ainsi que Lord Gladstone l'a dit dans la séance du Parlement du 25 Juin, 1872, en réponse à la demande faite par un membre de ce même Parlement de l'établissement d'un protectorat dans les Iles de Fiji ou de leur annexion, comment ce même gouvernement pouvait-il annexer les territoires de la partie sud de la Baie de Lourenço Marques, quand les régules de ces territoires déclarent ne vouloir être vassaux que de la Couronne Portugaise, et réclament contre la prétendue cession ? "Her Majesty's Government (dit à cette occasion Lord Gladstone) would annex no territory, great or small, except in conformity with the well-understood and sufficiently ascertained desire of the habitants of the territory proposed to be annexed."⁶

4. Parce que la protestation des régules est confirmée par leurs actes ultérieurs et par les indigènes eux-mêmes montrant leur *bonne volonté* d'être annexés, en massacrant les équipages des embarcations Anglaises, ainsi que le dit un sujet Anglais James Horsburgh, qui, en avouant que ce sont les Portugais qui maintiennent les relations avec les indigènes, il ajoute que l'on ne peut avoir confiance en ces derniers "surtout lorsqu'on envoie des embarcations dans les rivières avec des objets d'échange, car en semblable circonstance, ces indigènes ont massacré les équipages des embarcations."⁷

Les dites Conventions seraient encore nulles dans le fond :

2. Parce qu'alors même que les conventions auraient été librement consenties par

¹ José Accurcio das Neves, "Considerações Politicas e Commerciaes," &c. Lisbonne, 1830, p. 260 et suivantes.

² José Accurcio das Neves, loc. cit.

³ Numéro de Février, p. 347.

⁴ "Ocean Highways," loc. cit.

⁵ Document No. 47.

⁶ "Le Times" du 26 Juin, de 1872.

⁷ "Instructions Nautiques," trad. Franç. Paris, 1861, tome i, p. 368.

les régules, ils n'avaient pas plus le droit de les faire que l'Angleterre n'avait celui de les accepter.

Les régules ne pouvaient faire ces conventions parce que les territoires de toute la baie appartenant au Portugal qui, depuis trois siècles, y exerce sa souveraineté (ainsi que cela est démontré dans la quatrième partie de ce mémoire) la cession des territoires serait nulle, puisqu'elle concernerait une *chose appartenant à autrui*.

L'Angleterre pouvait d'autant moins accepter cette cession qu'ayant, six ans auparavant, reconnu les droits du Portugal sur toute la baie, ainsi que le prouve l'Article II de la Convention du 28 Juillet, 1817, elle ne pouvait alléguer son ignorance, sachant bien que les territoires que l'on prétend cédés appartenaient au Portugal et étaient occupés par nous.

Et cette cession pouvait d'autant moins être suivie d'effet, que le Portugal a *immédiatement protesté* contre les prétentions de la Grande-Bretagne.

C'est un principe indiscutable que l'on ne peut transmettre à autrui plus de droits qu'on n'en possède ou des droits que l'on n'a pas : *Nemo plus juris in alium transferre potest quam ipse in re habet*.

De ce principe auquel le droit Romain ne donnait pas un sens aussi général,¹ mais que la jurisprudence moderne admet unanimement,² résulte la nullité de tout contrat par lequel un individu dispose, comme lui appartenant, du bien d'autrui. De pareils actes sont expressément frappés de nullité dans le Code Civil Français, par l'Article 1599 relatif à la vente mais applicable à toute espèce d'aliénations.³

La force de notre droit prévaudrait nécessairement contre la *cession*, prévaudrait même contre la *conquête*, si l'Angleterre s'armait de ce dernier titre plutôt que du premier. Lorsque cette nation, en 1662, vendit à la France la ville de Dunkerque qu'elle avait prise aux Espagnols, elle comprit la fragilité de son titre, et cette vente eût été nulle si la Convention du 27 Octobre de la même année ne fût venue la consacrer dans le Traité d'Utrecht par l'acquiescement de l'Espagne, ainsi que la Grande-Bretagne elle-même l'a confessé.⁴

Section 4.—*Les Conventions ne pourraient produire aucun effet.*

Les Conventions avec les régules n'auraient pu avoir aucun effet favorable à l'Angleterre parce que, en admettant même la validité de ces Conventions l'Angleterre n'a pas rempli les conditions auxquelles s'obligeait le Capitaine Owen en échange de cette prétendue cession du régule du Tembe.

Les Conventions sont de nature indivisible; les articles servent de conditions aux autres articles et l'inexécution des uns entraîne celle des autres.⁵ C'est un principe de droit naturel professé par Grotius⁶ et admis dans l'ancien et le nouveau droit Français : "*Omnia pacta appposita subeunda et ferenda sunt, si eo uti velit, aut ex toto recusanda conditio contractus*," écrivait d'Argentré sur l'Article 423 de la Coutume de Bretagne.⁷

Ceux qui ont écrit sur le droit des gens se divisent en deux camps à l'égard de la nullité d'un Traité dont les Articles n'ont pas été observés.

Les uns admettent la nullité quand la violation atteint les Articles *connexes* (*connexi*) et ne l'admettant pas lorsqu'elle concerne les articles *divers* (*diversi*). C'est le système de Wolf,⁸ suivi, à quelques modifications près, par Pinheiro Ferreira.

D'autres prétendent que la violation d'un seul article, quel qu'il soit, entraîne la nullité d'un Traité, s'il n'est protégé par une stipulation contraire. Telle est la théorie de Grotius, déjà cité, de Vattel⁹ et de Wheaton.¹⁰

Mais ils s'accordent tous sur ce point; que l'inexécution de *toutes* les conditions d'un Traité de la part d'une des parties délie l'autre partie.¹¹

¹ Ll, 54, 143, 175, § 1 et 177. Dig. "De Regul. Jur."

² Troplong, "Hypoth." No. 530; Zachariae, "Le Droit Civ. Français," trad. de Massé et Verger, tome ii, § 346, et tome iv, § 680; Marcadé sur l'Art. 1599.

³ Cass., 16 Janvier, 1810; Poitiers, 10 Avril, 1822; Cass., 23 Juillet, 1835; S. V., 36, 1, 70; 30 Juin, 1841, S. V., 41, 1, 657.

⁴ "Ambassades et Négociations de M. le Comte d'Estrades." Amsterdam, 1728, p. 520.

⁵ Victor Pons, "Aphorismes de Droit," Paris, 1846, p. 83.

⁶ "De Jure Belli ac Pacis," lib. iii, chap. xix, No. 14; "Capita Singula alia aliis inesse videntur per Modum Conditionis."

⁷ Gloss 2, No. 1; Salvaing, "Traité de l'Usage des Fiefs," chap. xciv; Julien, "Sur les Statuts de Provence," tome ii, p. 211 et suivantes.

⁸ "Jus. Gent." §§ 1022 et 1023.

⁹ Loc. cit., liv. ii, chap. xiii, § 202, et liv. iv, chap. iv, § 47.

¹⁰ "Elem. de Droit Internat.," tome ii, chap. iv, § 7.

¹¹ Schrodtt, "System. Jur. Gent.," p. 167 et suivantes; Henri Fagel, "Diss. de Garantia Foederum," Ludg. Batav. 1759, chap. iv, §§ 17 et 20; Schmalz, "Europ. Volkerrecht," p. 49 et 64; Klüber, loc. cit., § 165; note du Cardinal Gonçalves présentée au Congrès de Vienne, le 14 Juillet, dans les "Acten des Wiener Congresses" de Klüber, tome iv, p. 321, &c.

Et les règles se sont si bien considérés comme déliés de tout engagement envers l'Angleterre, que, jusqu'à ce jour, ils ont sans cesse agi en sujets du Portugal; en 1857 le règle actuel nommé *Bacuta* a, sur sa demande, été confirmé dans le Gouvernement de son respectif territoire par les Portugais et un délégué du Gouverneur de Lourenço Marques a présidé à son installation et en reçu hommage de vassalité, ainsi que nous l'avons dit plus haut.

Spécialement à l'égard du Mapouto, les deux Traités, alors même qu'ils ne seraient ni controuvés ni atteints de nullité, et qu'ils comprendraient une cession ou un protectorat de territoire, n'en resteraient pas moins sans effet, attendu que, de ces prétendus Traités, il ne résulte pour l'Angleterre aucun droit de propriété ou de souveraineté sur le territoire de Mapouto ni sur les îles de l'Unhaca et des Eléphants.

Dans le premier de ces Traités, en date du 3 Août, 1823,¹ sont à peine indiqués les droits d'entrée des navires Anglais à leur arrivée à Mapouto; savoir: cinq pour cent pour les grands navires et quatre pour cent pour ceux de moindre importance. Si ces documents avaient une valeur quelconque, il en ressortirait tout au plus une preuve de souveraineté en faveur du règle de Mapouto à qui l'Angleterre paierait des droits, mais non une preuve que la propriété du territoire de ce règle appartienne à l'Angleterre; de sorte que ce document, loin de démontrer la souveraineté de l'Angleterre, démontre qu'elle n'a aucun droit sur ces territoires.

Le second de ces prétendus contrats, en date du 27 Août,² accorde à peine à l'Angleterre le droit d'établir une colonie à Mapouto, sur l'emplacement désigné par le règle à la condition que cette colonie s'établirait *dans les dix années* fixées pour la durée des stipulations de ce second Traité.

D'où il résulte:

1. Que, par ce Traité, le règle de Mapouto *ne cédait nullement son territoire à l'Angleterre.*

2. Qu'il était uniquement permis à l'Angleterre d'établir une colonie sur les terres *que le règle désignerait.*

3. Que le Traité n'avait de valeur que pendant *dix années* et que cette faculté d'établir une colonie *cesserait pour l'Angleterre si elle n'en profitait pas dans ce délai de dix années.*

Et c'est avec de pareils titres en main que l'Angleterre prétend s'emparer du Mapouto et des îles de l'Unhaca et des Eléphants!

Notre respect pour l'arbitre, et le sérieux que doit imposer une question de cette nature, font taire les réflexions qui s'offrent naturellement à l'esprit.

Chapitre II.—Réfutation du deuxième argument présenté par l'Angleterre.

Le second argument de l'Angleterre fondant sa prétention sur le besoin qu'elle a des îles de l'Unhaca et des Eléphants pour s'opposer à la traite des nègres, est inadmissible:

1. Parce qu'il ne s'agit pas de savoir si l'Angleterre juge convenable, *dans un but quelconque*, de s'emparer de ces îles, mais seulement si elle a ou non quelque droit sur ces mêmes îles.

2. Parce qu'il serait intolérable et contraire à la morale et au droit que, pour éviter la traite des nègres qui est un crime, on *prît* à une nation une partie de son territoire, ce qui constitue un acte non moins condamnable, alors que l'on pourrait s'opposer à ce trafic par d'autres mesures légitimes.

3. Parce que, en outre, le prétexte de la traite des noirs à Lourenço Marques en 1823 est dénué de tout fondement. Ce ne sont pas les Portugais qui l'affirment, mais les étrangers eux-mêmes; déjà en 1822, dans ses "Variétés politico-statistiques sur la Monarchie Portugaise," Balbi écrivait à l'égard de ce district: "Il n'en sort point d'esclaves parce que les habitants détestent le commerce."³ Et peu après, en 1824, les "Annales Maritimes et Coloniales" de France disaient: "A la Baie de Lagoa, où la race Cafre domine, la traite des esclaves cesse entièrement."⁴

4. Parce que la nation Portugaise a toujours été jusqu'à ce jour l'ennemie déclarée de la traite des nègres; elle l'a combattue de toutes les manières et a complètement aboli l'esclavage dans ses colonies.

5. Et ces faits sont tellement exacts, que l'Angleterre elle-même a récemment sollicité le Portugal d'employer diplomatiquement son influence sur le Sultan de

¹ Document No. 39.

² Document No. 40.

³ Paris, 1822, p. 116.

⁴ 2ème Partie, tome ii, p. 59.

Zanzibar,¹ afin que ce Souverain abolît la traite des noirs dans ses Etats, alors que pour être logique et cohérente dans ses idées, elle eût dû appliquer aux territoires de Sultan les mêmes principes qu'elle veut faire valoir dans la question de Lourenço Marques, en tâchant de s'emparer des Etats de ce prince, pour en finir avec le trafic des esclaves.

Chapitre III.—*Le droit de l'Angleterre (si elle eût eu ce droit) serait périmé.*

En admettant que les prétendues cessions de 1823 eussent donné quelque droit à l'Angleterre, ce droit serait périmé, d'après les principes soutenus par le Gouvernement Anglais.

Lord Howard, dans une note adressée, le 8 Août, 1843, au Ministre des Affaires Etrangères en Portugal, à l'égard de la question relative à la souveraineté de l'île de Boulama, dans la Guinée (question résolue en faveur du Portugal par le Président des Etats-Unis) déclara que la nation Portugaise avait abandonné ses droits sur cette île, puisqu'elle était restée *onze mois* sans répondre à la note de Lord Palmerston du 9 Juin, 1841.

“The undersigned (*écrivait-il*) is further to state that it was reasonable that Her Majesty's Government should expect that, if an answer could be given to the note of June 9, 1841, maintaining the right of Great Britain to the island of Bolama, such answer would be given. . . . And that, not having been given, Her Majesty's Government are justified in considering that Portugal acquiesced in the claim asserted by Great Britain.”

Or, l'Angleterre ayant laissé sans réponse la dernière note du Duc de Palmella, écrite en 1828, jusqu'au nouvel attentat commis en 1861, c'est-à-dire pendant un intervalle de *trente-trois années*, aurait, par ce fait, *abandonné* ce droit si elle l'eût possédé; et elle ne peut contester cette conclusion qui découle de *sa doctrine et non de la nôtre*.

Chapitre IV.—*Appréciation des procédés du Gouvernement Anglais ou plutôt de ses autorités dans la question en litige.*

La démonstration juridique de la futilité des titres invoqués par l'Angleterre, doit se compléter par un examen rapide de ses procédés ou plutôt des procédés de ses agents; nous présenterons simplement les faits, laissant à l'esprit éclairé de l'arbitre le soin de les commenter.

1. La possession, pendant trois siècles, de la Baie de Lourenço Marques par la nation Portugaise, est sue du monde entier et surtout de l'Angleterre, qui l'a reconnue en 1817, dans un Traité fait avec le Portugal, *son plus fidèle allié*.

2. Sous prétexte d'études d'hydrographie sur la côte orientale d'Afrique, le Gouvernement Anglais sollicite en 1822, pour le Capitaine Owen, des lettres de recommandation du Gouvernement de Sa Majesté Très-Fidèle adressées aux autorités Portugaises dans cette région.

3. Le Capitaine Owen, abusant de la faveur qui lui est accordée, commet les attentats les plus inouïs contre la souveraineté Portugaise; il s'empare à main armée d'un bâtiment marchand retenu en séquestre pour délit de contrebande, insulte le Gouverneur Portugais, menace de raser la forteresse et tue un soldat d'un coup de feu tiré de son bord.

4. Ces attentats du Capitaine Owen, étrangers toutefois à la question de souveraineté débattue entre les deux Gouvernements, n'ont pu, *jusqu'à ce jour*, obtenir satisfaction ni réparation, *malgré les énergiques réclamations du Portugal!*

5. Non content d'outrager le Gouvernement Portugais dans la personne de ses Agents, le Capitaine Owen, par ses intrigues, a essayé (mais sans succès) d'indisposer contre nous les régules de la baie, et de les exciter à se révolter contre la souveraineté Portugaise.

6. Il a fabriqué, en 1823, de prétendus traités avec les régules de Tembe et de Mapouto (traités niés par les régules), et a porté l'audace jusqu'à arracher du Tembe le drapeau Portugais.

7. Il a reconnu, en 1825, que l'Angleterre ne pourrait recueillir les effets de cette cession sans que la question fût préalablement résolue entre les deux Gouvernements, ce qui montre les doutes qu'il avait lui-même au sujet de son propre ouvrage.

8. Le Portugal réclama, et l'Angleterre, embarrassée par la valeur de la réclama-

tion, se dispensa de répondre à la dernière note que l'Ambassadeur Portugais lui adressa en 1828.

9. Le Gouvernement Portugais cessa ses démarches, persuadé que le silence gardé par l'Angleterre impliquait son consentement et la reconnaissance de notre droit ; et de fait, l'Angleterre n'a depuis pratiqué aucun acte qui pût faire supposer qu'elle conservât la moindre prétention.

10. En 1861, sans un seul mot d'explication au Gouvernement Portugais et après un silence de *trente-trois années*, l'Angleterre déclare l'annexion des îles de l'Unhaca et des Eléphants à la Colonie du Natal et envoie un navire de guerre placer son drapeau sur l'une d'elles. (Ce drapeau disparut immédiatement.)

Le simple récit de ces faits parle plus haut que les commentaires que l'on pourrait y ajouter.

Chapitre V.—*Les Anglais n'ont aucune confiance en leur prétendu droit.*

Enfin, tel est le peu de confiance que les Anglais ont dans leur droit, que le Vice-Amiral H. Hall, dans une lettre adressée par lui à l'éditeur de "l'Ocean Highways," de Londres, et publiée dans le numéro de Février, 1873 (p. 354), dit que l'Angleterre devrait étendre ses possessions d'Afrique jusqu'à la partie sud de la Baie de Lourenço Marques, si elle ne l'avait pas déjà fait :—"And the sooner we extend our domination to its southern part, if we have not done already !"

Quelle est donc cette contrée qu'un Amiral Anglais ignore en 1873 avoir été ou non déjà acquise par son pays ?

Et doit-on s'étonner de cette ignorance, alors que le Gouvernement Britannique lui-même, après avoir fait, en 1861, un simulacre de prise de possession de l'île de l'Unhaca (qui fait partie du Mapouto) et y avoir fait arborer le drapeau Anglais, aussitôt retiré, déclarait, dans une note de Lord Clarendon, en date du 27 Août, 1869,¹ qu'il n'avait ordonné ni l'occupation du Tembe ni celle du Mapouto ?

SIXIÈME PARTIE.

Conclusions finales.

Nous avons exposé le fait et le droit applicable à la question.

Les preuves que nous présentons sont des documents irréfutables et des témoignages d'auteurs plus ou moins contemporains des faits, ou d'écrivains insuspects.

Déjà dans les anciens temps, il était d'usage d'invoquer le témoignage des historiens, et s'il nous fallait en citer des exemples, l'antiquité Grecque nous en fournirait deux, relatifs à des différends survenus entre Priène et Samos et qui furent soumis, le premier, à l'arbitrage du Roi Lysias et le second à celui des juges de Rhodes. Dans ces deux cas, les arbitres invoquèrent l'autorité des historiens pour rendre leurs décisions que le temps même a respectées et qui se trouvent aujourd'hui dans le "Corpus Inscriptionum Græcarum."²

Il est temps de conclure : donc, en vue de l'exposé du fait et du droit :

Attendu que, suivant le droit public en vigueur en Europe au seizième siècle, la *découverte* de territoires dans les régions occupées par les infidèles était un titre légitime à l'acquisition de la souveraineté de ces territoires, et que le Portugal possède, en vertu de ce titre, la totalité de la Baie de Lourenço Marques, non-seulement déjà *découverte* par les Portugais en l'année 1506, mais encore *explorée* par eux depuis 1544 ;

Attendu que le droit du Portugal ne s'est pas borné uniquement à ce titre, mais s'est rendu immédiatement effectif par l'*occupation* et la *possession* de la baie, occupation et possession qui datent de plus de trois siècles, à partir de 1544 ;

Attendu que la possession, soit qu'on la considère comme possession de droit civil, soit comme possession de droit public à l'égard du droit de souveraineté dans cette région, c'est-à-dire comme possession de territoire ou comme possession de droits, s'est toujours exercée dans *toute* la baie ;

¹ Document No. 73.

² Nos. 2251 et 2905 et partie de la dernière dans le "Voyage Archéologique" de Le Bas, 5e part, Nos. 198 et 199. Sur l'autorité des Chroniques dans la décision des conflits, le Cardinal de Lucca, "De Judic," disc. 33 ; Gabriel, "Essai sur la Nature, les Différentes Espèces et les Divers Degrés de Force des Preuves." Paris, 1845, p. 188, et suivantes.

Attendu que la possession du territoire s'est manifestée d'abord par l'établissement de factoreries sur les rives du *Saint-Esprit* (*English River*) dans l'île *Chefine*, dans le *Manhiça* au nord et dans l'île de l'*Unhaca* au sud; ensuite par la construction, depuis le dix-huitième siècle, d'une fort sur la rive droite du Saint-Esprit, dans le *Tembe*, fort dont il reste encore des vestiges et qui fut plus tard transporté sur la rive gauche ou nord où il existe aujourd'hui; et enfin par l'occupation militaire de l'île de Benguelene, à l'embouchure du *Manhiça*, et de l'île de l'*Unhaca*.

Attendu que la possession de la souveraineté de toute la baie, en y comprenant le *Tembe* et le *Mapouto*, est prouvée par les actes de souveraineté au moyen desquels le Portugal a toujours affirmé son droit, soit par le titre de maître de ces contrées, joint aux autres titres des Rois de Portugal, soit par l'exercice exclusif de la navigation et du commerce, soit par le châtement des tribus rebelles, soit par la construction de forteresses, soit enfin par l'expulsion des étrangers lorsqu'ils tentèrent de s'y établir, ainsi que cela eut lieu avec les Autrichiens en 1781;

Attendu que l'occupation et la possession du Portugal, soit qu'elle se considère comme un moyen subsidiaire d'augmenter la valeur du titre de la découverte, soit comme simple possession pour être maintenue, ou enfin, comme possession regardée comme moyen d'acquérir, réunit toutes les conditions juridiques de la possession;

Attendu que, si le droit du Portugal sur la baie de Lourenço Marques n'avait pas été déjà affirmé dans le dix-septième siècle, il l'eût été en 1629 par la cession faite par le Roi du Monomotapa, dont les domaines s'étendaient encore au delà de cette baie et jusqu'auprès du Cap de Bonne-Espérance;

Attendu que la souveraineté du Portugal a été reconnue par les règles de la baie qui se regardent comme vassaux de la Couronne Portugaise et qui l'affirment, non-seulement par une série de faits incontestés, mais encore par reconnaissance expresse et même écrite;

Attendu que ce droit a également été reconnu dès le seizième siècle, tacitement et expressément, par les ouvrages géographiques, par les écrivains et par les Gouvernements de l'Europe;

Attendu que, dans l'hypothèse, toutefois imaginaire, du manque absolu de titres antérieurs à 1781, l'expulsion des Autrichiens dans cette même année serait un autre titre légitime, celui de la *conquête*, confirmé par l'occupation et la possession constantes jusqu'à ce jour;

Attendu que les titres sur lesquels s'appuie l'Angleterre pour contester au Portugal et revendiquer pour elle-même la souveraineté d'une partie de la baie, dans le *Tembe* et le *Mapouto*, ne peuvent prévaloir contre le droit de la nation Portugaise;

Attendu que les Traités que l'on prétend avoir été faits, en 1823, entre les règles et le Capitaine Owen et qui constituent le premier argument de l'Angleterre, ne peuvent avoir aucun effet juridique; d'abord parce qu'ils n'ont aucune authenticité, ensuite parce qu'ils ont été déniés par ces deux règles et enfin, parce que, si réellement ils n'étaient pas fictices, ils n'en seraient pas moins nuls dans la forme, vu le manque de qualité du Capitaine Owen pour traiter, et le manque de ratification de ses actes par le Gouvernement Anglais, ratification d'ailleurs rendue impossible par les déclarations des règles; et attendu qu'il seraient nuls dans le fond, puisqu'ils ont pour objet l'aliénation d'un bien appartenant à la Couronne Portugaise et dont les règles ne pouvaient aucunement disposer;

Attendu, en outre, que des Traités faits avec le régule de *Mapouto*, alors même qu'ils seraient authentiques et valables, il ne résulterait aucune cession à la Grande-Bretagne du territoire de *Mapouto* ni des îles de l'*Unhaca* et des *Eléphants*;

Attendu que le Capitaine Owen, tant à l'égard de ces prétendues cessions qu'à celui de tous les attentats qu'il a commis, s'est rendu coupable de la plus insigne perfidie, abusant des lettres de recommandation qui lui avaient été accordées par le Gouvernement de Sa Majesté Très-Fidèle près des autorités Portugaises de l'Afrique Orientale, à la sollicitation du Gouvernement Anglais lui-même;

Attendu que la nécessité de l'abolition de la traite des nègres (deuxième argument de l'Angleterre) non-seulement s'appuie sur un fait inexact, mais encore ne pourrait juridiquement donner lieu à ce qu'une nation fût dépouillée d'une partie du territoire qui lui appartient;

Attendu que le droit du Portugal est reconnu par l'Angleterre elle-même dans le Traité de 1817 par lequel la baie est considérée comme limite sud des possessions Portugaises dans l'Afrique Orientale, ce qu'établissent encore d'autres documents;

Attendu que, ni le Gouvernement Britannique lui-même, ni les hommes les plus compétents de la nation Anglaise n'ont foi dans ce prétendu droit de souveraineté de la Grande Bretagne;

Attendu, enfin, que la baie de Lourenço Marques, dans toute son étendue, atteint le 26° 30' de latitude sud, ainsi que le démontre le simple examen des cartes géographiques ;

Il devra sembler au juge arbitre :—

1. Que le droit du Portugal à toute l'étendue de la baie de Lourenço Marques est incontestable et s'étend, *par conséquent*, jusqu'au 26° 30' ;

2. Qu'ainsi est dénuée de tout fondement la prétention de l'Angleterre sur la partie méridionale de cette même baie, qui comprend les territoires de *Tembe* et de *Mapouto*, ainsi que les îles de l'*Unhaca* et des *Eléphants*.

Si l'Angleterre est trop puissante et trop riche pour avoir à craindre, dans un arbitrage, l'effet de la jalousie des autres nations, comme l'écrivait encore cette année le Vice-Amiral Hall à propos de ce différend,¹ le Portugal, lui, malgré sa faiblesse relative, a une foi entière dans la justice de sa cause et nourrit la ferme conviction que ses droits seront reconnus par l'arbitre, chef d'une nation qui, mieux que toute autre, sait que la force du droit est toujours supérieure au droit de la force, et qu'au-dessus de toutes les nations, quelque puissantes qu'elles soient, il est, ainsi que le dit Cicéron, une loi éternelle et immortelle qui les domine : *Omnes gentes et omni tempore una lex, et sempiterna et immortalis, continebit*.

APPENDICES.

APPENDICE 1.

Descriptions Portugaises de la Baie de Lourenço Marques (seizième, dix-septième, et dix-huitième siècles).

I.—*Alvaro Fernandes, 1552.*²

ILS continuaient leur voyage à petites journées selon la nature des pays qu'ils traversaient, et toujours avec les mêmes peines et les mêmes fatigues ; depuis trois mois déjà ils étaient à la recherche du fleuve de *Lourenço Marques*, que quelques-uns nomment aussi fleuve de la Bonne Paix (*Boa Paz*).

Au bout de ce temps ils arrivèrent près d'un Cafre, seigneur de deux villages, vieillard qu'ils supposèrent avec raison être un grand personnage et qui les accueillit fort bien.

Ce Roi Cafre (*de l'Unhaca*) demanda avec instance à Manuel de Souza et à ses gens de l'aider contre un Roi avec lequel il se trouvait en guerre, et dont ils auraient à traverser les domaines. L'avantage qu'il comptait retirer de cette assistance, et la connaissance qu'il avait déjà des Portugais par *Lourenço Marques* et *Antonio Caldeira*, qui avaient déjà été dans son pays, l'engageaient à faire tous ses efforts pour ne pas les laisser continuer leur voyage. Ces deux Portugais lui donnèrent le nom de *Garcia de Sá*, parce qu'il lui rassemblait beaucoup par son grand âge, sa bonté et les traits de son visage.

* * * * *

Ils se décidèrent à continuer leur recherche du fleuve de *Lourenço Marques*, sans se douter qu'ils s'y trouvaient déjà. Ce fleuve est celui de la Bonne Paix (*Boa Paz*) ; trois rivières viennent y mêler leurs eaux et se jeter à la mer par la même embouchure ; ils étaient près de la première, et quoiqu'ils trouvassent des traces du séjour des Portugais en cet endroit, leur mauvaise fortune les aveugla tellement qu'ils voulurent à tout prix continuer leur voyage.

Le navire qui faisait le commerce de l'ivoire, et qui appartenait à un parent de Diogo de Mesquita, arriva au moment même où ils venaient de perdre tout espoir de rencontre des Chrétiens dans ces terres, &c.

II.—*Manuel de Mesquita Perestrello, 1554.*³

... Le 3 Juillet, entre 9 et 10 heures du matin, nous arrivâmes à l'entrée de la baie du fleuve du *Saint-Esprit*, lequel était désigné sous son nom primitif de fleuve de *Logoa*, sur la carte maritime dont nous étions pourvus. Cette baie est longue de quinze à vingt lieues, et en certains endroits elle n'est pas moins large : la mer y pénètre par deux entrées dont l'une au sud-ouest, qui n'est pas très grande, et l'autre au nord-ouest, de sept à huit lieues ; il y a entre ces deux entrées une île ayant à peu près trois lieues de circonférence.

Dans cette baie débouchent trois fleuves assez grands, qui viennent de fort loin de l'intérieur, et dans lesquels la marée se fait sentir à dix ou douze lieues. Le premier du côté sud s'appelle *Tembe* ; il sépare les terres d'un Roi ainsi nommé de celles du Roi *Inhaca*, avec lequel nous nous rencontrâmes

¹ "As for arbitration, England is too great and too rich to be exempt from the jealousy of other nations.—Lettre au rédacteur de "l'Ocean Highways," numéro de Février de 1873, p. 354.

² "Histoire de la très remarquable perte du Grand Galion Saint-Jean, dans laquelle on raconte les travaux sans nombre et les Grands Malheurs arrivés au Capitaine Manuel de Sousa de Sepulveda, &c., lequel se perdit en l'année 1552, le 24 Juin, sur la Côte du Natal" (édition sans indication de lieu ni d'année). Il y a d'autres éditions postérieures de 1592, 1614, 1625 et 1633. Ce rapport a été reproduit dans le dernier siècle par Bernardo Gomes de Brito dans son "Histoire Tragico-Maritime."

³ "Naufrage du Vaisseau 'Sainte-Benoît,' Capitaine Fernão Alvares Cabral, perdu le 22 Avril, 1554, sur la côte du Natal près du Fleuve de l'Infante," Coimbra, 1564, réimprimé dans "l'Histoire Tragico-Maritime," tome i, p. 139 et suivantes.

par la suite. Le second est celui du *Saint-Esprit* ou de *Lourenço Marques*, qui le premier fut exploré, à cause du commerce de l'ivoire, *ce qui fait qu'il est fréquenté depuis quelques années par les navigateurs*; bien des années s'étaient écoulées sans que personne y allât trafiquer : ce fleuve sépare les terres du *Tembe* de celle de deux autres chefs, dont les noms sont le *Rumo*¹ et *Mena Lebombo*. Le troisième et dernier est le *Manhiça*, ainsi nommé d'un Cafre de ce nom qui y gouverne, et a pour voisins beaucoup d'autres chefs; les rives de ce fleuve furent témoins de la mort de Manuel de Souza de Sepulveda, lequel y périt avec sa femme, ses enfants et presque tous ceux qui l'accompagnaient, à l'exception de sept ou huit personnes qui surécurent et racontèrent cette catastrophe.

Nous résolûmes de ne point poursuivre notre marche et de nous confier au roi de ce district; comme il était très près de l'endroit où le navire (de Mozambique) venait mouiller, nous supposons qu'il devait connaître les Portugais; nous avions d'ailleurs entendu dire à ceux qui avaient échappé au naufrage de 1552 qu'on les avait conduits de vingt et trente lieues de l'intérieur dans l'espoir d'une récompense, et nous comptions là-dessus, nous trouvant déjà à bout de forces.

Nous marchions depuis peu de temps lorsque nous aperçûmes sur le sommet d'une colline les habitants d'une peuplade qui était peu éloignée, et qu'ils avaient abandonnée dans la crainte d'être attaqués par nous; après beaucoup d'hésitations et de pourparlers avec l'interprète, quelques-uns vinrent à nous et nous dirent que leur Roi s'appelait *Inhaca*, qu'il aimait beaucoup les Portugais qui venaient souvent dans cette île avec un navire, et qu'il leur donnait quantité d'ivoire en échange de verroteries, dont ils étaient tous couverts.

III.—Manuel de Mesquita Perestrello, 1575.²

Le fleuve du *Saint-Esprit* est à la hauteur de 25° et trois quarts; il est presque à l'est-nord-est ouest-sud-ouest du *Cap des Courants* à une distance de 70 lieues. On le reconnaît facilement à une grosse saillie de rocher, qui forme une île qui ne s'étend pas sur la mer plus que la côte; cette île est longue d'une lieue et demie, et a une petite coupure au milieu, où l'on voit un point blanc. L'entrée du côté du sud-ouest est haute, mais pleine de rochers, et sa largeur est d'une portée de fusil; celle du nord-est a peut-être six ou sept lieues, et à l'intérieur elle forme un grand bassin, lequel, quoique il laisse beaucoup de sable à découvert dans la basse-mer des grandes marées, peut recevoir de grands vaisseaux de la carrière (des Indes). Trois grands fleuves navigables pour de petits navires, viennent déboucher dans cette baie. Pour y entrer il faut se placer à une bonne lieue de la pointe de l'île du côté du nord-est, et non à une moindre distance, car plus près de l'île et de la côte la mer est couverte d'écueils; on doit suivre ensuite les petites îles, ayant toujours la sonde en main pour reconnaître et éviter les bas fonds; on trouvera sept et huit brasses sur fond de sable clair, et à mesure qu'on entrera on devra s'approcher de l'île jusqu'à ce qu'on l'aie dépassé; on tournera ensuite vers le sud, dès qu'on découvrira l'entrée du côté du sud-ouest ou peu moins, et on mouillera sur huit ou neuf brasses près de l'île dans laquelle on trouve de l'eau potable à quelque endroit où l'on creuse la terre; on jettera l'ancre du côté du couchant à cause du courant qui vient des fleuves, et qui est très fort.

Le peuple de l'île, et de la côte nous aime beaucoup; son Roi s'appelle *Inhaca*; il vit encore, et ceux qui ont échappé au naufrage du vaisseau "Saint Benoît," parmi lesquels je me trouvais, ont été très bien accueillis par lui; il agit de même envers tous les Portugais, qui, par ordre des capitaines de Mozambique, vont y faire le commerce de l'ivoire. Les gens de l'autre côté ne sont pas si bienveillants; ils font tout le mal qu'ils peuvent à ceux qui vont y négocier; ce sont eux qui massacrèrent Manoel de Souza de Sepulveda avec ses compagnons, lorsqu'ils y arrivèrent, après le naufrage du galion "Saint-Jean" en 1552.

IV.—João Baptista Lavanha, 1597.³

La mer forme dans ces terres de *Inhaca* une grande baie longue de quinze à vingt lieues, et un peu moins large sur quelques points. Quatre grands fleuves, que la marée remonte à une distance de dix à douze lieues, viennent y jeter leurs eaux. Le premier, du côté du sud, est appelé *Melengana* ou *Tembe*; il sépare les terres d'un Roi de ce nom de celles de l'*Inhaca*. On nomme le deuxième *Anzate*, et les nôtres l'appellent fleuve du *Saint-Esprit* ou de *Lourenço Marques*, du premier qui y a tenté le commerce de l'ivoire, et dont la baie a pris le nom. Le troisième est nommé *Fumo*, parce qu'il traverse les terres d'un chef de ce nom; et le quatrième et dernier est celui du *Manhiça*, du côté du nord, sur les rives duquel eurent lieu la perte de Manoel de Souza de Sepulveda et la mort affreuse de Dona Leonor sa femme et celle de ses enfants. Don Paul de Lima y périt également, mais le souvenir de ses glorieux exploits lui surviva.

A l'entrée de cette baie (qui a une profondeur de quatorze et quinze brasses en quelques endroits) il y a une grande île de trois lieues de circonférence, laquelle forme deux entrées à la baie, l'une du côté du nord-est, large de sept à huit lieues, l'autre du côté du sud, étroite et à peu de distance. Nous appelons cette île l'*Inhaca*; elle est très abondante en pâturages et le Roi y a beaucoup de bétail. La mer fait une petite île d'une partie de cette *Inhaca*, sur laquelle on peut passer à la basse mer en ayant de l'eau jusqu'aux genoux. Elle est à la hauteur de 25° 40', et on l'appelle aujourd'hui l'*île des Portugais*⁴ à cause de ceux qui, ayant échappé au naufrage du vaisseau "Saint-Thomas," y moururent des fièvres.

¹ Peut-être "Mafoumo."

² Routier, imprimé pour la première fois dans "l'Art Pratique de la Navigation" de Luis Serrão Pimentel, Lisbonne, 1681, p. 394 et suivantes.

³ "Naufrage du Vaisseau 'Saint Albert' et Itinéraire de ceux qui purent se sauver," Lisbonne, 1597; reproduit dans "l'Histoire Tragico-Maritime," tome ii, p. 308.

⁴ L'île de Eléphants.

V.—*Diogo de Couto, 1611.*¹

Et venant du royaume de *Viragune*, qui occupe toute la terre des *Fumées*, on trouve le royaume d'*Inhaca* qui s'étend au nord-est jusqu'à la pointe de la Baie de Lourenço Marques du côté du sud, et embrasse encore deux îles placées près de cette pointe, l'une de quatre lieues nommée *Choanbone*² qui est peuplée, possède sept villages, et abonde en vaches, et chèvres et en poules; et l'autre de deux lieues nommée *Sentimuro*³ qui est inhabitée, et dans laquelle, pour être mieux à couvert des attaques des nègres du pays, se logent les nôtres qui y viennent pour le commerce de l'ivoire, qui se fait principalement avec cette île de l'*Inhaca*. On trouve dans cette île de l'eau excellente; on y pêche beaucoup de poisson et de tortues, mais le gibier n'y vaut rien.

Et comme nous venons de parler de cette baie, qui est très connue et l'une des principales de cette partie de la terre que les géographes appellent Afrique, nous en donnerons la description pour mieux faire connaître les rois qui habitent ses rives.

Imaginons un papillon avec deux pointes, l'une celle de l'*Inhaca* dont nous venons de parler, et l'autre celle qui se trouve du côté du nord, où est le royaume du *Manhiça*, dont nous parlerons bientôt; ces deux pointes sont séparées par environ six lieues de mer, qui a quatorze brasses de fond à l'intérieur de la baie. Au milieu de la baie est placée une île, à laquelle les nôtres ont donné le nom de île des Oiseaux (*dos Passaros*⁴), à cause de la grande quantité de volatiles qu'on y trouve, et qui sont gros comme des canards, et si gras qu'on retire de leur graisse de l'huile pour les lampes et pour les habitacles des navires.

Les ailes de ce papillon sont formées, celle du sud, par le fleuve qui court au sud-ouest, et des deux côtés dequel s'étend le royaume de *Belingane*, qui est aussi le nom du fleuve; et celle du nord par celui du *Manhiça*, dont un royaume prend le nom; ce fleuve est le plus grand de tous ceux qui viennent déboucher dans la baie, et un de ceux dont nous avons dit dans la huitième Décade, à propos du royaume du Monomotapa, qu'ils sortent du grand Lac avec le Nil et d'autres fleuves. Il vient jeter ses eaux dans cette partie qu'on nomme vulgairement la Jolie Bay (*Bahia Formosa*) et qui n'est autre que le fleuve du *Saint-Esprit*. Les Portugais font ici le commerce de l'ivoire, et y ont leur factorerie dans laquelle ils demeurent quatre mois chaque année, ce qui est la durée de cette mousson.

La queue de ce papillon, divisée en deux pointes, est formée par deux rivières qui viennent également jeter leurs eaux dans la baie qui est comme le corps du papillon; sur celle du nord s'étend le royaume du *Rumo*,⁵ où Manuel de Sousa de Sepulveda, lorsqu'il y passa avec sa femme, abandonna ses armes, comme nous l'avons écrit dans la sixième Décade, et où il périt avec les siens, miné par le chagrin que lui causait la mort de sa femme et de ses enfants; on croit qu'il fut dévoré par les bêtes féroces dans les forêts.

L'autre pointe de la queue du papillon du côté du sud est le royaume nommé *Anzete*⁶ . . . lequel aboutit à de hautes montagnes qui ont plus de vingt lieues d'étendue et qui sont si âpres, si sauvages et si bien fortifiées par la nature qu'on ne peut y pénétrer que par des passages ou des gorges très difficiles; il y a sur ces montagnes de larges plateaux appartenant à un chef nommé *Monhimpeca*, qui n'en descend jamais, et qui a n'aucune communication avec ses voisins; les uns et les autres sont très voleurs.⁷ Les gens de ces montagnes parlent la même langue que leurs voisins les *Vumos* et les *Anzetes*.

Ces deux rivières qui constituent les pointes de la queue du papillon⁸ forment à deux jours de marche de l'endroit où elles débouchent, une autre rivière qui traverse l'*Anzete* jusqu'au *Vumo*, en coupant cette queue vers le milieu; il y a là un Roi nommé *Angomanes*, dont le royaume s'étend vers le couchant; cette rivière coule près de montagnes sur les flancs desquelles se trouvent quelques peuplades. . . .

L'embouchure du fleuve du Saint-Esprit est la tête du papillon. Du fleuve *Manhiça*, il sort un bras de rivière qui tourne vers le sud-ouest, et coupe une pointe en formant l'île que nous avons appelée île du *Miel*,⁹ la côte suit alors cette pointe jusqu'au fleuve des *Rois*, que nous appelons maintenant fleuve de l'*Or*, et qui est à la hauteur de vingt-cinq degrés; sur ce fleuve, du côté du couchant, s'étend le royaume de *Inhapula*, et de l'autre côté celui de *Manuça*, qui est soumis au premier.

VI.—*Description anonyme du dernier quart du siècle dix-huitième.*¹⁰

Il y a la grande Unhaca et la petite Unhaca, la grande pointe qui se trouve du côté du nord figure le pied d'une vache; l'Unhaca grande forme une autre pointe du côté du sud et figure également le pied d'une vache; elle a dix lieues de côtes. Ces contrées sont fort peuplées, tous les habitants sont

¹ "Relation du Naufrage du Vaisseau 'Saint-Thomas,'" Lisbonne, 1611, reproduite dans "l'Histoire Tragico-Maritime," tome ii, p. 174 et suivantes.

² "L'Unhaca."

³ L'île des Eléphants.

⁴ La Grande Chefine.

⁵ C'est le Mafumo.

⁶ Diogo de Couto se trompe. Ce royaume dont il parle, c'est le Tembe; l'*Anzete*, c'est le Mapouto.

⁷ Ce sont les montagnes du Lebombo, ou du Mussouate.

⁸ Le Tembe et le Matolla.

⁹ Aussi nommée de Benguelene.

¹⁰ Cette description inédite qui fait partie de la collection de manuscrits du premier Officier et sous-directeur au Ministère des Affaires Étrangères, Jorge Cesar de Figanère, est la copie pleine de fautes d'orthographe (que nous avons corrigées) d'une espèce de rapport adressé par un Commandant Militaire de Lourenço Marques au Prélat de Mozambique, Don Fr. Amaro de S. Thomas, comme on le voit dans le dit rapport. Cette description est postérieure à 1781, car elle fait allusion à l'expulsion des Autrichiens que eut lieu en cette année; elle est également postérieure à 1785, puisque ce ne fut qu'en cette année que le titre d'évêque de Pentacomea *in partibus* fut donnée à ce prélat et que ce n'est qu'à partir de cette époque qu'on pouvait lui donner ce titre d'excellence qui se trouve dans la copie.

Hottentots et n'ont aucune religion. Le commerce de ces peuples est très développé, ils possèdent une grande quantité d'ivoire qui vient du continent du sud, beaucoup de riz, nombre de légumes de toutes sortes, et une grande quantité d'ambre ; on y trouve encore beaucoup de dents de monstres marins, quelques-unes du poids de sept, huit et même neuf livres. Devant l'Unhaca il y a une petite pointe de terre que l'on peut à peine apercevoir, et qui s'étend vers l'ouest. L'ouverture entre ces deux pointes peut avoir dix lieues de largeur, au milieu se trouvent quelques bancs de sable, les navires de toute grandeur peuvent y pénétrer.

En face de l'Unhaca se trouve l'île de Sainte-Marie où les navires prennent leur mouillage, on y trouve d'excellent poisson, à la marée basse, la mer se retire à plus de trois lieues ; les nègres y trouvent de nombreux coquillages parmi lesquels le marteau et la rose, je vis une de ces dernières qui avait plus de trois palmes de circonférence.

C'est là que les Cafres font la pêche des perles dont ils trouvent une grande quantité.

De la grande Unhaca vers la terre se trouve une baie où viennent déboucher quelques fleuves qui sont innavigables ; on trouve ensuite le fleuve Mapouto qui s'enfonce dans l'intérieur dans la direction du sud-ouest ; son embouchure a près de deux lieues de large, il est très profond, et ne peut être remonté que par les bateaux à rames, ses rives sont très peuplées, les habitants sont tous des Hottentots qui font un grand commerce ; on peut remonter ce fleuve pendant plus de trois mois, il est peuplé sur tout son parcours, différents régimes y règnent, le commerce consiste en ivoire, cornes de rhinocéros, dents de monstres marins, or, cuivre et beaucoup d'ambre des bords de la mer ; ce fleuve est d'un grand commerce.

Au bord de la mer on voit le fleuve du Saint-Esprit ; sur sa rive se trouve le Roi nommé Capella, qui s'appelle maintenant *Antonio* : ce roi est fort puissant, il a à peu près vingt-cinq ans, et il a toujours chez lui un marchand pour le trafic de l'ivoire, de sorte que sa résidence ressemble à une douane, il est fort riche et possède de nombreux esclaves et beaucoup de bétail, il demeure dans son village qui se trouve à sept lieues de distance de la plage. Au nord du fleuve se trouve notre factorerie où nous avons un fort qui a eu jusqu'à 170 soldats de garnison avec leurs officiers respectifs ; le mouillage des navires est situé dans ce fleuve du Saint-Esprit qui a une lieue de largeur à son embouchure ; ce fleuve est peu navigable ; tout le commerce se fait à la résidence de l'un ou de l'autre roi.

Le Roi Matola (c'est aussi le nom de la contrée) est très puissant et bien approvisionné, son village est fort vaste, j'y ai compté plus de quatre cents cases ; il possède une grande quantité d'ivoire, il a beaucoup de captifs et sa maison ressemble à une grande foire, c'est là que viennent les habitants des montagnes avec de l'or, du cuivre et de l'ivoire, pour la vente desquels ils paient au roi un droit ; ce roi est plein d'honneur et de générosité ; quelques soldats ayant été le voir chez lui, il les combla de tout ce qu'il pouvait leur donner et fit prier le commandant de ne pas les punir ; il nous a donné une grande quantité de terres pour les cultiver et y bâtir notre village ; la contrée qu'il gouverne est toute peuplée : il a une grande province nommée *Cherinda*, dirigée par un vice-roi, cette province est fort riche et il en tire une grande quantité d'ivoire et de cornes de rhinocéros ; ce grand Roi est très notre ami, il venait nous voir toutes les semaines ou nous faisait rendre visite et nous envoyait chaque fois une ou deux vaches, en signe d'amitié, de manière que nos soldats étaient maîtres du pays, d'autant plus que le Roi avait ordonné qu'il ne leur fût fait aucun mal. Nous avons établi notre village à l'endroit où s'étaient établis les Hollandais ; nos soldats tuaient chaque jour un grand nombre de poules, car il y en avait en abondance.

On voit d'ici le fleuve de Manissa, à l'embouchure duquel se trouve l'île de l'Éléphant,¹ île dépeuplée, mais où jadis nous eumes un village. Ce fleuve a près d'une lieue de largeur à son embouchure, il est navigable pour les petits navires tels que les corvettes, les *pallas* et les *smaks*, à son entrée on trouve le Roi nommé Mauoté ; ce Roi est très riche et semble avoir un grand pouvoir et être fort respecté ; j'ai vu dans sa maison deux grandes caisses pleines d'ambre, dont il me fit un cadeau d'environ deux livres, il me témoigna une grande amitié ; chaque semaine il envoyait son secrétaire me rendre visite, j'allai deux fois à sa résidence, à travers de mauvais chemins d'une étendue de sept lieues, et j'en fut toujours fort bien reçu.

A quelques journées de voyage en remontant le fleuve, on trouve le Roi Matundane ; celui-ci n'est pas aussi puissant ; en remontant encore le fleuve pendant trente ou quarante jours, on arrive chez le grand Caxa, qui est comme une sorte d'Empereur. Ce monarque est très puissant et très riche, il a un grand nombre d'esclaves. C'est là que se rendent tous les navires de commerce ; ce Roi donne l'hospitalité aux marchands qui vont y acheter l'ivoire, l'or, les cornes de rhinocéros, les dents d'hippopotame et le cuivre, ce qu'ils ont à très bon marché ; le grand village de ce Roi est composé de plus de six cents cases, il est bien approvisionné, très fort et a bonne apparence. Un grand nombre de nègres du royaume de Quiteve descendent de la montagne et viennent à ce village pour y faire des échanges, ils apportent une grande quantité d'or. Ces nègres sont tous *landins*, ils vont entièrement nus à l'exception des parties naturelles qui sont enfermées dans un tuyau tressé de paille fine, quelques-uns de ces tuyaux ont deux ou trois palmes de long ; les femmes couvrent avec un lambeau d'étoffe ou de cuir les parties que la pudeur leur commande de cacher. Ce grand Caxa et son peuple se sont trouvés en rapports suivis avec les Impériaux qui en tiraient de grands profits : tous les mois deux ou trois navires chargés de vêtements noirs et de verroterie s'y rendaient pour les échanges ; ces marchands ne restaient chez le Roi que le temps nécessaire au déchargement et au chargement des navires. Ces deux fleuves, d'après mes observations, peuvent fournir chaque année plus de douze bâtiments chargés d'ivoire, d'or, de cornes de rhinocéros et de dents d'hippopotame.

Tout ce commerce est aujourd'hui en notre pouvoir ; nous avons un corps de troupes de deux cents hommes et le général avait l'intention d'envoyer des familles dans cette nouvelle colonie ; le pays est admirable, les aliments y sont de bonne qualité, l'eau est excellente et les soldats n'ont rien à craindre des naturels ; tous y vivaient contents ; pendant les vingt mois que nous y demeurâmes sept soldats

¹ C'est l'île de Benguelene, connue autrefois à ce qu'il paraît, sous le nom d'île de l'Éléphant.

ombèrent malades et moururent, ainsi que trois matelots, le Commandant et un Sous-Lieutenant, le premier hydropique et le second asthmatique.

Le fleuve de l'Or pénètre dans le continent et va se rencontrer avec le fleuve Manissa ; ce fleuve est d'un grand commerce, ses rives sont très peuplées, et il a un banc de sable à son embouchure. Cette baie depuis le Cap des Courants jusqu'à l'Unhaca mesure trois degrés, elle a cent et tant de lieues de plages qui s'étendent vers l'ouest, toutes sont couvertes d'habitants qui font un grand commerce d'ambre et vont le vendre aux Rois Mattola, Matumbambe, Mauote, et au Grand Caxa.

De l'Unhaca vers le sud on trouve une grande rivière, c'est là que les Impériaux avaient une factorerie importante que Don Frédéric fit raser d'après des ordres qu'il avait reçus ainsi que celle qu'ils possédaient sur le fleuve du Saint Esprit, sur les rives de Lagoa.

Ceci est ce que j'ai pu voir et observer distinctement.

Parmi ces peuples bien peu sont circoncis ; quelques-uns, du fleuve du Saint Esprit vers le nord le sont ; mais vers le sud il n'y en a aucuns, probablement parce que la religion de Mahomet n'y est point parvenue ; tels sont les renseignements que je possède et que je puis offrir à votre Excellence révérendissime.

APPENDICE 2.

VOCABULAIRE de la Langue Caffre de la Baie de Lourenço Marques.

Abanar	Eventer	E-ko-kla-ka-kla.	Cabeça	Tête	Inkloko, saco
Abelha	Abeille	Tinose, Tinyotse	Cabello	Cheveu	Misise (<i>pl.</i>)
Abestruz	Autruche	Impa	Cabra	Chèvre	Embate
Abrir	Ouvrir	E-ko-fula	Cafr	Tomber	I-k-ua
Achar	Trouver	I-ko-i-kuma	Calar-se	Taire (<i>se</i>)	E-ko-miela
Acordar	Réveiller (<i>se</i>)	I-ko-sesemuka	Calor	Chaleur	Inyuko
Agua	Eau	Mati	Caminho	Chemin	Indhella
Agua salgada	Eau salée	Nambo	Campo	Champ	A-nova
Aguçado	Pointu	A-mukwa tsa-ka-riba	Canoa	Canot	Intsene
Algodão	Coton	Butsale	Cansar-se	Fatiguer (<i>se</i>)	I-kt-karrala
Alimentar	Nourrir	I-ko-undla	Cantar	Chanter	E-ko-imbelela
Alto	Haut	Tsa-koleha	Cão pequeno	Petit chien	Imbdsana
Amanhã	Demain	Monduko	Cara—V. Rosto		
Amanhã (depuis de)	Après-demain	Mundhluana	Carne	Chair	Inyama
Amargo	Amer	Tsababa	Caro	Cher	En-na-lisima
Amigo	Ami	Ana-kolore	Carogo	Noyau	Mifula
Annel	Bague	Tsihlawane	Carregar	Charger	A-ko-rroata
Apanhar	Ramasser	I-ko-koma	Carvão	Charbon	Makalla
Apparecer	Apparaître	A-ko-boneka	Casa	Maison	A-indhlo, <i>pl.</i> A-tiindhlo
Aprender	Apprendre	E-ko-dionda	Casar	Marier (<i>se</i>)	I-ko-lovola
Aquelles	Ceux-là	A-va-vanu-na la-vai	Casco de cavallo	Sabot (<i>de cheval</i>)	Inwala
Arco (de flecha)	Arc	Tsitamulo	Cauda	Queue	Inkilla
Arroz	Riz	A-mpunga	Cavallo	Cheval	Mangoa
Arvore	Arbre	Mure	Cavallo zebra	Zèbre	Timangoa
Assoprar	Souffler	E-ko-femula	Cavar	Creuser (<i>la terre</i>)	Iko-dsima
Assucar	Sucre	Ulamhia	Cêdo	De bonne heure	Timindo
Atar—V. Ligar.	Attacher		Cêgo	Aveugle	Loa-kon-ngabo-ne
Ave	Oiseau	A-uko.	Cem.	Cent	Zana, <i>pl.</i> Mazana
Avô	Grand-père	Koko-ana	Cemiterio	Cimetière	Manttimui-ne
Aza	Aile	Lipapa	Cêra	Cire	Maklamfo wa-ti-nyotse
Azedo—V. Amargo	Aigre		Chapéu	Chapeau	Chelembia
Azeite—V. Oleo.			Chave	Clef	Fungulo
Baço	Rate	Tsevinde	Chegar	Arriver	E-ko-tsinekela
Baixo	Bas	Tsi-tongo	Cheiro	Plein	I-telle
Bala	Balle	Maballa	Cheiro (mau)	Puanteur	Ko-nunka
Banana	Banane	Tsenga	Chorar	Pleurer	E-ko-dzila
Barato	Bon marché	E-nga-na-lisima	Chuva	Pluie	Infula
Barba	Barbe	Indefo, <i>pl.</i> a-tin-defo	Cinco	Cinq	Klano, tsano
Bastante	Assez	Psi-nyinge	Cincoenta	Cinquante	Klano-a-makume
Batata	Pomme de terre	Miklata	Cirurgião	Chirurgien	Lo-a-kodiana
Beber	Boire	I-ku-nua	Clamar	Crier	E-ko-fisa rito
Beijos	Lèvres	Anahase	Cobrir	Couvrir	E-ko-fukometa
Bello	Beau	Tsitsongile	Colerico	Colère (<i>adj.</i>)	A-nimona
Boa constrictor	Boa constricteur	A-nrhlaro	Colher	Cueillir	Inkombe
Bobo	Bouffon	Mubongwe	Colorir	Colorier	E-ko-tsala
Bôca	Bouche	Nomo	Com	Avec	Ná, ná-u, ná-o.
Boi	Bœuf	Inyarre	Comer	Manger	I-ku-dia
Bom	Bon	Tsaombe	Comprar	Acheter	Tsava
Bote	Bateau	Barrika	Comprido	Long	Tsa-koleha
Braço	Bras	Maboko	Conceber—V. Entender	Concevoir	
Branco	Blanc	A-nhloe, a-puto	Construir	Construire	E-ko-i-aka
Brilhante (<i>adj.</i>)	Brillant	Tsapatima	Conservar—V. Guardar		
Cabana	Chaumière	Tiko-ene	Contar	Compter	E-ko-saia

Contente	Content	Vahlangêla	Espingarda	Fusil	Tsibalesa
Continuar	Continuer	I-ko-iaêka	Esquecer	Oublier	E-ko-dzivala
Côr	Couleur	Mavala	Esquerdo (lado)	Gauche (côté)	Tsimaute
Coração	Cœur	Imbilo	Este	Ce, celui-ci	A-muno-lue
Corno	Corne	Liondo	Estrada—V. Ca-	Route	
Corpo	Corps	Mirre	minho		
Correr	Courir	I-ko-timela	Estrella	Etoile	Inyelete
Cortar	Couper	E-ko-tsova	Eu	Je, moi	Mi-ne
Cozinhar	Faire la cuisine	E-ko-bzeka a-n-	Evacuar	Evacuer	E-ku-nya
		dolsene	Faca	Couteau	Mukwa
Costas (dorso)	Dos	Makadhla	Fazer	Faire	E-ko-runga
Coxa da perna	Cuisse	Thombi	Febre (ter)	Fièvre (avoir la)	Tsa-isa mirre
Côxo	Boîteux	Lo a-ko-ku-ta	Fechar	Fermer	I-ko-fala
Creança	Enfant	Intsonguana	Feiticeiro	Sorcier	A-moi
Crescer	Croître	I-ko-mila	Felis pardus	Chat sauvage	Ingwé
Crocodilo	Crocodile	Ingoenya	Femea	Femelle	Impsele
Curar	Guérir	E-ko-dihaa	Perida	Blessure	Tsilondo
Dansar	Danser	E-ko-kwina	Ferro	Fer	Nunbo
Dar	Donner	E-ko-mu-nyika	Filha	Fille	Wana lo-wanua-
Dedo	Doigt	Litin, <i>pl.</i> Tintio.			nyana
Dedo do pé	Doigt du pied	Tintio ta-milenge,	Filho	Fils	Wana
		<i>pl.</i>	Flecha	Flèche	Inzeve
Defender	Défendre	E-ko-ti-lwela	Fogo	Feu	A-ndolo-ene
Dentes	Dents	Tinyo, <i>pl.</i> a-matin-	Folha	Feuille	Kampa, <i>pl.</i> Makam-
		yo			ba
Dentro de	Dedans	Tsi-karre ka	Fome	Faim	Indhlala
Descer	Descendre	Ko-fulamela	Fonte	Source	Inklovo
Desejar—V.	Désirer		Formiga	Fourmi	Bukokote
Querer			Forquilha	Petite fourche	Tsilawa
Desejo	Désir	E-ko-navela	Forte	Fort	Mire e-inkulo
Desembarcar	Débarquer	E-ko-huma	Frio	Froid	Tsirrame
Despertar—V.			Fugir	S'enfuir	I-ko-haha
Acordar			Fumo	Fumée	Muse
Despir	Déshabiller	E-ko-susa	Gallinha	Poule	Impsele a-uko
Destruir	Détruire	E-ko-ona	Gallo	Coq	Kuko a-uko
Deus	Dieu	Tillo	Ganhar	Gagner	E-ko-mo kuma
Dez	Dix	Kume, <i>pl.</i> Mahume	Gato	Chat	Tsipakana
Dia	Jour *	Imblekane	Gente	Gens	A-vano, a-va-va-
Direito (lado)	Droit (côté)	Tsi-nene			nuna lava (es-
Disforme	Difforme	Tsakobiha			tes homens)
Distante	Lointain	Ku-le	Gordo	Gras	Tsikolukike
Dividido	Divisé	E-ko-tsoveka	Grande	Grand	Ulo
Dobrar	Doubler	E ko-songa	Gritar—V. Cla-	Crier	
Doente	Malade	Tsabadsa	mar		
Dogue—V. Cão			Guardar	Garder	E-ko-beka
pequeno			Guerra	Guerre	A-fumo
Dous	Deux	Jebire, mabire	Habitação—V.		
Doze	Douze	Kume na-iebire	Casa		
Durar—V. Con-	Durer		Habitar	Habiter	I-ko-i-aka
tinuar			Hipopotamo	Hippopotame	Infuvo
Duro	Dur	Tsitieleke	Hoje	Aujourd'hui	Na-masa
Duzentos	Deux cents	Mazana mabire	Homem	Homme	A-tsuna
Dysenteria	Dysenterie	A-nya-dsugate	Hontem	Hier	A-tolo
E (conj.)—Na	Et	Na	Hontem (antes	Avant-hier	A-to-lo-ene
Elephante	Éléphant	Indhlôfo	de)		
Elle	El, lui	Jene, <i>pl.</i> wo-ne	Hyena (crocuta)	Hyène (crocuta)	Mise
Embarcar	Embarquer	E-ko-ingena	Insultar	Insulter	E-ku-lwá
Embigo	Nombril	Inkava	Inteiro	Entier	Botule
Emprestar	Prêter	E-ko-bolêka	Intestinos	Intestins	Marumbu
Encher	Remplir	E-ko-tata	Intrigar	Intriguer	E-mankuo
Encontrar	Rencontrer	E-ko-hlangana	Ir	Aller	E-ko-famba
Enforçar	Pendre	I-ko-te-sunga	Joelho	Genou	Tsolo
Enganar	Tromper	I-ko-kanganyisa	Juba	Crinière	Tintsie
Entender	Comprendre	E-ku-psi-ngela	Ladrão	Voleur	Kamba
Entranhas—V.	Entrailles		Lago	Lac	Tiva
Intestinos			Lagrima	Larme	Minyambete
Entrar	Entrer	E-ko-ingena	Lamber	Lécher	E-ko-nompsa
Entregar	Remettre	E-ko-mo-nyika	Lança	Lance	Hlare
Errar	Se tromper	E-ko-otsa	Lançar	Jeter	E-ko-behe-la
Escapar	Echapper	E-ko-anya	Largo	Large	Tsa-koleha
Escolher	Choisir	I-ko-saula	Leão	Lion	Indão
Esconder—V.	Cacher		Leite	Lait	Intwamba
Ocultar			Levantar	Lever	E-ko-tsakula
Escorpião	Scorpion	Tsikungo	Leve	Léger	Tsakonabdsala
Escravo	Esclave	Nanda	Ligar	Attacher	E-ko-patsa
Escuridão	Obscurité	Munyama	Limpar	Nettoyer	I-ko-kusa
Espada	Epée, sabre	Lipanga	Lingua	Langue	Redime
Espancar	Frapper	I-ku-ba	Linho	Lin	Tiagote
Espaneçar.—V.			Longe	Loin	Ku-le
Abanar			Lua	Lune	Uete
Esperar	Attendre	E-ko-rindella	Lua cheia	Pleine lune	Uete lé-ulo

Lua nova	Nouvelle lune	Uete, loke-vason-gula	Peito (do mulher)	Sein	Mabellia Tinhlamfe
Luz	Lumière	Fumallo	Peixe	Poisson	
Macaco	Singe	Iabo	Pelle	Peau	Inthe
Machadinha	Petite hache	Tsikomo	Pello	Poil	Misise (<i>pl.</i>)
Machado	Hache	Kaula	Pequeno	Petit	Tsi-tongo
Maduro	Mûr	Tsi-nfike	Pequeno (muito)	Très petit	Tsi-tongo-anyana
Mandar	Ordonner	E-ko-rumetela	Perguntar (nós perguntamos-lhe)	Demander	Tu-mo-botisa
Mãe	Mère	Mama-no	Perdoar	Pardonner	E-ko-t'irruia
Manhã	Matin	Mindo	Perna	Jambe	Milenge
Mão	Mauvais	Tsi-fano	Perto	Près	Ko-kue
Mão	Main	Boko	Pesado	Lourd	Tsabinda
Marido	Mari	A-nuna	Pescar	Pêcher	E-ko-otsa
Matar	Tuer	E-ko-dlaia	Pescoço	Cou	Enkollo
Medico—V. Cirurgião	Médecin		Peso	Poids	E-ko-pima
Medido	Mesure	E-ko-pima	Pessoa	Personne	A-muno
Medir	Mesurer	E-ko-pima	Pimenta	Poivre	Pirepere
Meio dia	Midi	Tsikarre ka-di-ambo	Piolho	Pou	Tinwala
Mel	Miel	Melombe	Plantar	Planter	E-ko-simeka
Melancolico	Mélancolique	Tsaklunama	Pobre	Pauvre	Nanda
Mentira	Mensonge	Madzime	Podre	Pourri	Tsibolike
Meu	Mon	Tsa-ngu	Polvora	Poudre	Buklungo
Mez (um)	Mois (un)	A-uete i-nyua	Pombo	Pigeon	Tuva
Mil	Mille	Mazanamabirena-tsinyua	Pôr	Mettre	E-ko-ekleka
Milho	Maïs	Mapila	Pôr do sol	Coucher du soleil	A-diambo va-pêla
Misturar	Mélanger	E-ku-patsa	Porco	Sale	Ingoluve
Mócho	Hibou	Makelle	Porta	Porte	Tsifalo
Môço—V. Rapaz	Garçon		Pote	Pot de terre	Tsambeto
Molestar	Maltraiter	E-ko-babisa	Povoação	Peuplade	Muti, <i>pl.</i> a-mitine
Mólho	Sauce	Makelle	Preguiçoso	Paresseux	Tsaoloha
Molle	Mou	Tsinabdsala	Preto	Noir	A-ntima
Morder	Mordre	E-ko-luma	Prostituta	Fille publique	Matsungua
Morrer	Mourir	I-ku-fa	Pulga	Puce	Inpeka
Mosca	Mouche	Nongana	Pulmão	Poumon	Mahasa, <i>pl.</i>
Mosquito	Moustique	Tinsuna	Pulsção	Pulsation	Insia
Mudo	Muet	Lo ako a-ngavola-vule	Qual—V. Que	Quel	Mune a-makume
Muito	Beaucoup	Le-i-nyinge	Quarenta	Quarante	Kume na-munc
Muitos	Nombreux	La-va-nyinge	Quatorze	Quatorze	Munc
Mulher	Femme	Empsele	Quatro	Quatre	Lo
Mulher casada	Femme mariée	Wá-usate, <i>pl.</i> a-vasate	Que (pron. relat)	Qui	E-ko-pandeka
Nariz	Nez	A-nonfo	Quebrar	Casser	E-mane
Nascer do sol	Le lever du soleil	A-diambo vauma	Quem	Qui	Tsaia
Negar	Nier	I-ko-ialisa	Quente	Chaud	E-ko-navela
Ninguém	Personne	A-hi-munu	Querer	Vouloir	Tsirulige
Noite	Nuit	Besiko	Quieto	Tranquille	Kume natsano
Nome	Nom	Bito, <i>pl.</i> a-mabito	Quinze	Quinze	Mihlamsa
Nosso	Notre	Ja-nine	Rã	Grenouille	Insinya
Nove	Neuf	Tsano na-munc	Raiz	Racine	Wanuaryana
Novo	Nouveau	Mampsa	Rapariga	Jeune fille	Wa-ndisanyana
Nu	Nu	A-nga-ambalangaentsumo	Rapaz	Garçon	I-ko-tsava
Obedecer	Obéir	E-ko-fumella	Receiar	Craindre	Enkukuto
Occultar	Cacher	E-ko-tumbetela	Rede	Filet	Rago, <i>pl.</i> ma-rango
Oito	Huit	Tsano na-tinano	Região	Région	A-hose
Oleo	Huile	Ma-furra	Rei	Roi	A-murre
Onze	Onze	Kume na-tsinyana	Remedio	Remède	Ombe, <i>pl.</i> maombe
Osso	Os	Rambo	Remo	Aviron	
Ostra	Huitre	Máwa	Resgatar—V. Perdoar		
Outro	Autre	Muanyana	Responder	Répondre	E-ko-fumela
Ouvir	Entendre	E-ko-ingella	Rhinoceronte	Rhinocéros	Melembe
Ovos	Oeufs	Tanda, <i>pl.</i> matanda	Ribeira	Ruisseau	A-nambdsana
Pae	Père	Tata-no	Rico	Riche	Tsifumige
Paiz—V. Região	Pays		Rio	Fleuve, rivière	Nambo
Pagar	Payer	E-ko-akela	Rir	Rire	E-ko-kleka
Parecer	Paraître	A-ko-boneka	Romper—V. Quebrar	Rompre	
Parente	Parent	Makuao	Rosto	Figure	A-maklo-ene
Partir	Partir	I-ko-suka	Sal	Sel	Munyo
Passar	Passer	E-ko-kaluta	Saliva	Salive	A-marre
Passaro	Oiseau	Ti nyanyana	Sair	Sortir	E-ko-huma
Pateo	Cour	Liklakte	Sangrar	Saigner	E-ko-hlema
Pé	Pied	Dsondo, nege	Sangue	Sang	Ingate
Pedir	Demander	E-ko-kambela	Secco	Sec	Tsi-homike
Pedra	Pierre	Ribdsu	Sede	Soif	Torra
Peito	Poitrine	Tsifuva	Seguir	Suivre	I-ko-landa
			Seis	Six	Tsano na-ty-nyua
			Selvagem	Sauvage	A-ne borrena

Semear	Semer	E-ko-bdsala	Trovão	Tonnerre	A-ti-llo-va-bale-ka
Senhor de terras	Seigneur de terres	A-hose-ak	Tu	Toi	Wé-ne
			Um	Un	Tsinyua- inyua
Sentir	Sentir	E-ko-ingella	Unha	Ongle	Inwala
Serpente	Serpent	Inyoka	Vacca	Vache	Omo, <i>pl.</i> a-teomo
Sete	Sept	Tsano na-iebire	Vasio	Vide	A-nga-na-utsu-mo
Sessenta	Soixante	Klano a-makume nakume tsi-nyua	Veia	Veine	Insia
			Vento	Vent	A-míu
Setenta	Soixante-dix	Klano a-makume na makume mabire	Ventre	Ventre	Kurre
Seu	Son, leur	Ia-iene, <i>pl.</i> iawone	Verde claro	Vert clair	Li-bise
Sim	Oui	Ipsone	Verde escuro	Vert foncé	Boma
Só	Seul	Onga	Vermelho	Rouge	Wa-libungo
Sobrançelha	Sourcil	A-mesiè	Vestir	Habiller	E-ko-hambala
Sol	Soleil	Diambo	Vinte	Vingt	Makume mabire
Sol posto—V.	Coucher du soleil		Viver	Vivre	I-ku-anya
Pôr do sol			Voar—V. Fugir		
Sonhar	Rêver	E-ko-lorra	Vontade—V.	Volonté	
Sôro de leite	Petit-lait	Imhise	Desejo		
Subir	Monter	I-ko-kandiá	Vosso	Votre	Ia-wine
Sujo	Sale	A-ni-tsambdsá	Voz	Voix	A-rito
Suor	Sueur	As-nyuko a mirre	Zebra—V. Ca-		
Surdo	Sourd	Lo a-ko a-ngain- gele	vallo zebra		
Tabaco	Tabac	Folle	<i>Algumas</i>	<i>Quelques</i>	
Tal	Tel	A-ina	<i>phrases.</i>	<i>phrases.</i>	
Tartaruga	Tortue	A-ase	Anda! vae!	Allons! marche!	Famba
Temer—V. Re-	Craindre		Cale-se	Taisez-vous	E-ko-miela
ceiar			D'aquí a quatro dias	Dans quatre jours	Uu tawe
Tempestade	Tempête	Lokó a-tilo-vaba- leka	D'aquí a tres dias	Dans trois jours	Ue leio
Terra	Terre	Misava	Ha tres dias	Il y a trois jours	A-tolo-ene wa la-a- hia ni lo a la-h- aia
Teu	Ton	Ia-ko, <i>pl.</i> ta-ko			
Tio	Oncle	Rara-na	Não tens mais?	Est-ce que tu	A-nga-rande psim- n'en as plus?
Tosse	Toux	Koklela	O que é isso?	Qu'est-ce que	Impsi-ne ke lepso c'est que ça?
Tossir	Tousser	E-ko-klala	Quem?	Qui?	E-mane
Trabalhador	Journalier	Ane-emtano	Traga-o cá	Apportez-le ici	Huia ná-o
Trazer	Apporter	E-ko-bnia na-u	Vem cá	Viens ici	Talena, buya taleno
Tres	Trois	Tinato, mararro			
Treze	Treize	Kune na-tinaro			
Trigo da India	Blé de l'Inde	Tsitama			
Trinta	Trente	Makume mararro			
Tromba de ele- phante	Trompe d'élé- phant	Boko a-indhlofo			

Numeros

1. Tsinyua, inyua	11. Kume na-tsinyua	60. Klano a-makume na-ku-me tsin-yua
2. Iebire, mabire	12. Kume na-iebire	70. Klano a-maku-me-na-ma- ku-me mabire
3. Tinaro, mararro	13. Kume na-tinaro	100. Zana, <i>pl.</i> mazana
4. Mune	14. Kume na-mune	101. Zana na-tsinuya
5. Klano, tsano	15. Kume na-tsano	200. Mazana mabire
6. Tsano na-tsinyua	20. Makume mabire	201. Mazana mabire na-tsinyua
7. Tsano na-iebire	30. Makume mararro	1,000. Kune a mazana. ¹
8. Tsano-na-tinaro	40. Mune-a-makume	
9. Tsano na-mune	50. Klano a-makume	
10. Kume, <i>pl.</i> makume		

APPENDICE 3.

Spécimen de la Littérature des Zoulous.

I.—Esquisse historique de Chaka et de Dingana.²

Le père de Chaka était Senzangakona; le père de Senzangakona était Jama; le père de Jama était Umbuzi; mais je n'ai pas connu le père de Jama. Chaka s'en alla dans un autre pays, gouverné par Dingiswayo, le Roi des Tetwas. Quand il fut devenu un homme, il retourna, après la mort de son père, pour être couronné Roi à la place de son frère. Il devint maître du pays; et par sa puissance subjuga toutes les tribus. Il envoya une armée pour détruire les peuples et les rois qui le haïssaient à

¹ On doit comparer cet essai de vocabulaire de la Baie de Lourenço Marques, outre les ouvrages déjà indiqués, avec les travaux suivants: Lewis Grout, "A Grammar of the Zulu Language," Natal, 1859; Colenso, "Zulu English Dictionary," Pietermaritzburg, 1861; et "Zulu Vocabulary and Phrase Book," Durban, 1865.

² Extrait de la chrestomatie à la suite de l'important travail de l'Américain Lewis Grout, "A Grammar of the Zulu Language," Natal, 1859, p. 377 et suivantes.

cause de sa gloire; il avait une grande armée; il prit aussi un bouclier, et se mit lui-même à la tête de ses soldats.

Il parcourut tous les pays de ce côté du Tougela; il arriva jusqu'à Amampondo, autres tribus au-delà du Umzimkoulou, et au-delà du Umzimvoubou; il vint de ce côté vers la tribu des Amakosas, et se retira après les avoir conquis. Ils retournèrent tous chez eux et Chaka aussi avec eux. La Reine, la mère renommée de Chaka, mourut foudroyée. Ils retournèrent chez eux jusqu'au *Kraal* où demeure le Chaka, qui est sur la rivière appelée *Umvoti*; il en avait une autre au-delà de cette rivière.

Il entreprit la conquête d'un pays lointain; et tandis que son armée était encore employée à cette expédition, deux de ses frères formèrent avec un des premiers serviteurs de *Chaka*, un complot contre sa vie; ils se dirent, nous voulons la mort de *Chaka* car nous tenons à ce qu'un autre puisse devenir Roi et le remplacer; profitant de l'absence des soldats qui étaient en expédition contre d'autres tribus, et qui ne pouvaient pas le défendre, ils le tuèrent d'un coup de lance.

Il arriva après ce qu'ils firent que *Dingana*, voulant être Roi, tua son autre frère nommé *Umhlangana*. La mère en pleura amèrement à cause de son chagrin, elle voulait mourir aussi et était triste car son fils était innocent, n'ayant fait aucun mal. Les soldats arrivèrent après, ayant eu connaissance en route de ce qui s'était passé; quelques-uns en étaient contents, parce qu'il (*Chaka*) avait été un grand destructeur; d'autres le regrettaient, d'autres enfin s'en réjouissaient beaucoup. Mais *Dingana* commença à tuer et à persécuter; il commença par tuer ses frères aînés. Alors le capitaine du Roi, nommé *Unhela*, lui dit: "Il ne reste pas un seul de tes frères aînés vivant; tu n'a plus de frères, tu restes seul de la maison de ton père. Mais je te rappelle que tu dois permettre que ton frère *Umpanda* vive; car tu n'en as pas d'autre. Tu aurais tort, en vérité, d'en finir avec le dernier qui reste de ton père." À cause de cela *Dingana* permit à *Umpanda* de vivre.

Mais *Umpanda* s'enfuit. *Dingana* lui envoya beaucoup de bétail pour l'attirer; mais *Umpanda* se méfia; il comprit que ce bétail était envoyé pour l'attirer! à cause de ce bétail je suis aujourd'hui voué à la mort. Et lorsque les serviteurs du Roi *Dingana*, qui le conduisaient, partirent, il forma le projet de s'enfuir. L'ayant résolu, il envoya ses serviteurs en leur disant: "Allez dire à tout le peuple que je suis parti aujourd'hui; et que je m'en vais traverser le *Tougela* et trouver les blancs qui sont de l'autre côté, et leur demander secours." Quelqu'un vint et dit à *Dingana*: "Une balle lui entrera par derrière la tête, et sortira par devant; il tombera." *Dingana* avait divisé ses forces; il en envoya une partie dans un autre pays, pour prendre des troupes chez les *Amasouasi*, et il suivit ses soldats parce qu'il comprit que *Umpanda* le cherchait pour le tuer. Il suivit donc ses soldats, et les rencontra quand ils revenaient d'où ils avaient été.

Et il arriva la nouvelle que des soldats venaient avec *Umpanda*, et avec des Hollandais (Boers); ce dont *Dingana* fut très effrayé. Mais ses soldats lui dirent d'aller à la rencontre des forces de *Umpanda*; et *Dingana* dit: "Contre deux cornes, les Hollandais et les forces de *Umpanda*, que pouvons-nous faire? abandonnons ces lieux et allons dans un autre pays." Et *Dingana* partit le soir et voyagea toute la nuit avec ses soldats, ses troupeaux et son peuple. Et il coucha dans le *Folosi Noir*. Et le matin, *Dingana* se leva et partit avec ses soldats et voyagea péniblement; et les soldats de *Umpanda* le suivaient. Et *Dingana* en hâtant sa marche atteignit le *Magoudou*, croisa le *Umkouse*, et continua jusqu'à ce qu'il arriva à *Imbongobongo*, demeure du grand capitaine de *Belebele*. Il y resta un jour, et continua sa route, car il reçut la nouvelle que les troupes de *Umpanda* étaient tout près. Il voyagea et atteignit la grande Rivière *Pongolo*.

Et un messager arriva à *Dingana*, lui disant: "L'armée est battue par les Hollandais." *Dingana* prit alors ses bagages, les donna à ses serviteurs, se leva et s'enfuit; il arriva au district de *Amanyao*, et y resta un mois; et le mois suivant des soldats des *Amasouasi* y arrivèrent dans la nuit, et assiégèrent le *kraal* (ou demeure) où il était, car il n'avait que peu de soldats. Il abandonna la place et s'en alla dans un bois; mais ils le blessèrent à la jambe; il entra dans le bois et y resta; et lorsque le soleil se leva le lendemain, il mourut. Telle fut sa fin. Tout le peuple revint à *Umpanda*, avec les troupeaux de son frère aîné. Il succéda dans les états de son frère, car de tous les frères il ne restait vivant que *Umpanda*.

II.—Liste des Roi Zoulous.¹

- | | |
|-------------------|---------------------|
| 1. Upunga. | 5. Chaka. |
| 2. Umakeba. | 6. Dingana. |
| 3. Jama. | 7. Panda ou Umpanda |
| 4. Usenzangakona. | 8. Techuayo. |

NOTE.—Ce spécimen de la littérature Cafre a été traduit mot à mot dans le but de lui conserver son cachet d'originalité.

¹ Lewis Grout, "A Grammar of the Zulu Language," introduction, p. 1

DOCUMENTS.

(No. 1.)

Pigafeta, "Vera Descriptio Regni Africani." Francfort, 1598, p. 53 :

A Laurentio Marques, primo ejus ex Lusitanis *inventore* nomen sortitus est.

(No. 2.)

Joan. Pet. Maffei, "Historiarum Indicarum," libri xii. Antuerpiae, 1605, p. 454 e 455 :

Tredecim ferme dies curationi corporum dati mox de summa rei deliberatum, quid agerent, quo se conferrent; nemini dubium fuit, quin oram tenentes, ad flumen contenderent, cui *Laurentius Marchesius olim ab Sancto Spiritu nomen indiderat; eodemque Lusitani ab Sofala et Moçambico mercimoni causa commeabant* . . .

Quarto mense ad annum *Sancti Spiritus* perventum ab insciis; causa latendi fuit, quod auditae conceptaeque animo magnitudini haudquaquam respondebat flumen (quippe *tribus alveis ea regione decurrens, in exitu jungitur* . . .)

Percommode cecidit, quod regulus ea tenebat loca, miti admodum praeter aliorum consuetudinem ingenio vir, *beneque in Lusitanos animatus, quod illi placidum et aequum paulo ante commercium cum ipso Laurentio Marchesio et Antonio Caldeira fuisset.*

(No. 3.)

"Description de la Guinée, Congo, Angola, et autres Pays Maritimes d'Afrique," chap. vii, p. 202, dans "L'Histoire de la Navigation de Jean Hugues de Linschot aux Indes Orientales," troisième édition, Amsterdam, 1638 :

Poursuivant la coste on vient au fleuve *Magnica* qui fait le commencement du royaume de *Sofala* et *Monomatapa*. Ce fleuve provient du mesme lac dont procède le Nil, et se rend en la mer en un golphe, qui est entre le cap *della Pescheria* et le cap *delli Correnti* sous le tropique de Capricorne. En ce fleuve de *Magnica* non loin de la mer se viennent rendre trois autres fleuves desquels le principal est celuy de S. Christofle que les habitants appellent *Nagoa*; le deuxiesme porte le nom de *Lorenzo Marquez* qui le premier l'a decouvert, &c.

(No. 4.)

"Nouvelle Biographie Générale," publié par Firmin Didot, tōm. xxxiii. Paris, 1860, p. 941 :

Marques (Lourenço), Navigateur Portugais, né dans la première moitié du seizième siècle. C'était un négociant, accoutumé à faire le commerce de l'ivoire sur les côtes de l'Afrique orientale; il *explora* le fleuve qui porte son nom, vers 1545. Le 8 Mars, 1546, Bartholomeo Froès écrivait au nom du Roi à João de Castro, Gouverneur des Indes, de confier une nouvelle expédition à Marques, s'il le croyait capable de la diriger.

(No. 5.)

Lettre de Pedro Quaresma au Roi Don Emmanuel, écrite de Mozambique, le 31 Août, 1506.¹

(Traduction.)

Et de là nous partîmes le 16 du mois de Mai en suivant la côte, et à la hauteur de la pointe de Sainte-Lucie; la caravelle du vaisseau s'est perdue dans la nuit, et j'ai continué l'exploration entre le cap des Courants et celui de Sainte-Marie, et de là j'ai toujours suivi la côte jusqu'à Sofala, &c.

¹ Archives Nationales, "Corpo Chron.," p. 1, 5e liasse, document 111. "Annaes Maritimos," 3e série. Lisbonne, 1843, p. 440 et suivantes.

(No. 6.)

Lettre de Don João de Castro, écrite de Mozambique à Don João III, dans laquelle il rend compte de l'exploration de Lourenço Marques, dans la baie et sur les fleuves auxquels il a donné un nom.¹

(Traduction.)

Ces jours derniers Don Jorge a envoyé *Lourenço Marques* sur une *fuste* pour découvrir deux fleuves situés au-delà du Cap des Courants l'un à la hauteur du 25^e degré, et l'autre à celle du 26^e, et qui sont fort peuplés de nègres et abondamment pourvus de vivres. Sur les bords du fleuve, qui est situé sous le 25^e degré, on lui a montré du cuivre et on lui a dit qu'il y en avait plusieurs mines, et qu'on lui en vendrait autant qu'il en voudrait. Près de l'autre fleuve on voyait de grands troupeaux d'éléphants et de nègres qui offrirent de lui vendre de l'ivoire; ayant traité du prix, ils convinrent que, pour quelques perles de verre, qui peuvent valoir environ trois *vintens*, ils lui donneraient un *bar* d'ivoire qui vaut bien à peu près cent cruzades de l'Inde. Il m'a paru convenable, ainsi qu'à l'intendant des finances, d'envoyer, dès mon arrivée dans l'Inde, une flotte pour découvrir et savoir à fond ce qui en est, car ce serait d'un grand profit pour les finances de votre Altesse, &c.

(No. 7.)

Réponse du Roi Don João III à Don João de Castro, le 8 Mars, 1546.²

(Traduction.)

Don Joam de Castro mon ami, Salut! J'ai reçu, par l'entremise de Bernaldo Nacere, Capitaine du vaisseau de Garcia de Saa, qui est arrivé ici pendant le mois de Février dernier, la lettre que vous m'avez écrite de Mozambique. Je rends grâces à Dieu du bon voyage que vous avez fait et dont le récit détaillé m'a causé beaucoup de plaisir . . .

J'ai été charmé d'apprendre l'exploration que *Lourenço Marques* a faite de ces fleuves et comme il me semble qu'elle est très-importante et qu'il faut en avoir l'assurance complète, je vous recommande avec instance d'ordonner qu'il soit envoyé immédiatement de l'Inde, à cet effet, un navire ou une fuste, comme vous le jugerez convenable; et considérant que *Lourenço Marques* possède déjà des informations et a la pratique de cette affaire, je suis d'avis de le charger de ce voyage, et dans ce but vous lui donnerez des instructions très-particulières à l'égard de tous ses actes et des renseignements qu'il doit rechercher. Et comme il nous semble convenable qu'il conduise à son bord quelques marchandises qui peuvent être nécessaires, il sera bon de les lui envoyer, afin qu'il puisse s'en servir pour en faire plus facilement l'échange contre celles du pays et s'assurer exactement de celles qui s'y trouvent. Vous me communiquerez tout ce qui se fera à cet égard. Et quoique je vous dise d'envoyer *Lourenço Marques*, ne le chargez point de cette affaire sans vous assurer qu'il est, plus que tout autre, apte à s'en acquitter . . .

Ecrite par Bertolameu Froes à Almeirim le 8 Mars, 1546.

(Signé) LE ROI.

A Dom Joam de Castro.

(No. 8.)

Lettre Royale du 11 Février, 1557, nommant Lourenço Marques intendant de la factorerie de Cochin.

(Traduction.)

Dom Joam, &c. Je fais savoir à tous ceux qui verront cette lettre, qu'en égard aux services que *Lourenço Marques*, chevalier de ma maison, m'a rendus dans les régions de l'Inde qu'il parcourt en ce moment, il me plaît de lui accorder l'emploi d'intendant de la factorerie de Cochin pendant six ans, quoique, d'après le règlement, cet emploi ne doive durer que trois ans, et avec le traitement fixé par le dit règlement suivant les vacances des individus nommés par mes lettres antérieures à la présente. Par conséquent, je notifie cette nomination à mon Gouverneur actuel et à celui qui le sera à l'avenir dans les dites régions de l'Inde, et aux intendants de mes finances dans ces régions, et je leur ordonne de conférer la prise de possession de cet emploi à *Lourenço Marques* aussitôt qu'il en aura le droit de la manière indiquée, et de le lui laisser servir pendant le dit espace de six ans et recevoir le traitement, ainsi qu'il est déjà dit, et les bénéfices qui y sont attachés, sans qu'il lui soit fait aucune opposition ou embarras, car tel est mon bon vouloir. Et avant de lui donner possession du dit emploi, un des intendants de mes finances lui fera prêter serment d'en bien remplir les fonctions; ce dont il sera fait déclaration au verso de la présente que j'ai fait expédier en foi de tout, signée par moi et y ayant attaché le sceau de mes armes. Donnée à Lisbonne, le 11 Février, et écrite par Alvaro Fernandes en l'année 1557 de la naissance de notre Seigneur Jésus-Christ. Cette lettre a été écrite en double original, dont l'un seulement sera exécuté. André Soárez l'a fait écrire.³

¹ "Collecção de Manuscriptos Históricos em especial das Cartas de D. João de Castro," p. 15 (MS. de la Bibliothèque Nationale de Lisbonne, F 33). Cette lettre n'est point datée, mais elle est de Juillet ou Août, 1545, car Don João de Castro arriva à Goa le 10 Septembre.

² "Vida de D. João de Castro," par Jacintho Freire de Andrade, édition avec notes et documents par D. Fr. Francisco de S. Luiz, Lisbonne, 1835, document No. 25, p. 426-439.

³ Archives Nationales, liv. lxxi. de la Chancellerie de Don João III, fl. 179.

Traité du 29 Juillet, 1869, entre le Portugal et la République du Transvaal, ratifié le 21 Août, 1870.¹

(Traduction.)

Sa Majesté le Roi de Portugal et des Algarves et le Gouvernement de l'Afrique Méridionale, également animés du désir d'établir des relations constantes de paix, d'amitié et de commerce entre les deux peuples, ainsi que de déterminer les limites de leurs territoires respectifs, ont résolu de conclure un Traité dans ce but, et, à cet effet, ils ont nommé pour leurs Plénipotentiaires, et muni de pleins pouvoirs pour négocier le dit Traité, savoir :

Sa Majesté le Roi de Portugal et des Algarves : le Commandeur Alfred Duprat, Consul-Général de Portugal dans la Colonie du Cap de Bonne-Espérance et dans le sud de l'Afrique, son Plénipotentiaire ; et le Gouvernement de l'Afrique Méridionale (Transvaal Republick) : une Commission autorisée par l'Honorable Volksraad du 8 Juillet de l'année 1869, Article No. 183, composée de Heren Martinus Wessels Pretorius, Président de la République, des Sénateurs Heinrich Julius Ueckermann, Joseph Johannes Fourie, John Robert Lys, Martinus Jacobus Viljaen, Stephanus Johannes Paulus Kruger, Commandant Général, Mr. Bernard Cornelis Ernest Proes, Secrétaire Général du Gouvernement, lesquels, ayant échangé leurs pleins pouvoirs, trouvés en bonne et du forme, se sont accordé sur les Articles suivants :

* * * * *

Art. 22. Sa Majesté le Roi de Portugal et des Algarves d'une part, et de l'autre part le Gouvernement du Transvaal, voulant rendre aussi durables que les circonstances le permettront, les relations qu'il s'agit d'établir entre les deux parties contractantes au moyen de ce Traité ou Convention Générale de Paix, d'Amitié et de Commerce, déclarent solennellement qu'ils sont d'accord sur les Articles suivants :

1.

2. Le district de la Baie de Lourenço Marques, qui est désignée sur les cartes Anglaises sous le nom de Delagoa Bay, étant la plus méridionale des Possessions Portugaises dans l'Afrique Orientale, il est entendu que, dans ces régions du Continent Africain, les clauses de ce Traité seront exécutées par la Couronne de Portugal sur les territoires qui lui appartiennent, et qui ont pour limites au sud la ligne qui tirée d'un point sous le 26° 30' de latitude sud en ligne droite vers l'est, se prolonge jusqu'aux Montagnes de Lebombo ; de là, le long du sommet des dites montagnes jusqu'au passage du fleuve Comati, où ce fleuve coule entre les Montagnes de Lebombo ; de là vers le nord-nord-est jusqu'au mont appelé Pokioenieskop, qui est situé au nord du fleuve Oliphant, où il coule dans les environs ; de là vers le nord-nord-est jusqu'au point le plus proche de la Montagne de Chicundo, où coule le fleuve Umbovo ; de là, en ligne droite jusqu'à la jonction des fleuves Paforis et Limpopo.

(No. 10.)

Donation faite par Albasini à la Couronne Portugaise de terre du Régule Makaxulle, le 8 Avril, 1868.

(Traduction.)

Moi, Jean Albasini, citoyen Portugais, actuellement établi dans la République Africaine Méridionale, et exerçant par ordre de Sa Majesté les fonctions de Vice-Consul de Portugal dans cette République : de ma volonté libre et spontanée, et par ce document signé par moi et par les témoins ci-dessous, je fais donation au Gouvernement de Sa Majesté Très-Fidèle, le Roi de Portugal, des terres m'appartenant par achat fait au régule Makaxulle, situées sur les bords du fleuve Save, et qui s'étendent en largeur jusqu'au fleuve Incomate, à cinq jours de voyage de Lourenço Marques, au nord du 26° parallèle ; et je cède pour ma part tous mes droits de propriété.

Vice-Consulat de Portugal dans la République Africaine Méridionale.

Goedelevensch, ce 8 Avril, 1868.

(Signé)

J. ALBASINI, *Vice-Consul de Portugal*,

Témoins :

(Signé)

C. H. W. RABÉ.

H. B. PINTO.

(No. 11.)

Arrêté du 25 Mai, 1869, par lequel le Gouverneur de Mozambique autorise la fondation de la Colonie de Saint-Louis, sur les terres de Makaxulle.

(Traduction.)

Ferdinand Da Costa Leal, du Conseil de Sa Majesté, Commandeur de l'Ordre Militaire de Notre-Seigneur Jésus-Christ, Officier de l'Ordre très-Ancien et très-Noble de la Tour et de l'Épée, consacré à la valeur, à la loyauté et au mérite, Chevalier des Ordres d'Aviz et de Notre-Dame de la Conception de Villa Viçosa, Colonel d'Angola, Gouverneur-Général de la Province de Mozambique, pour Sa Majesté Très-Fidèle le Roi, que Dieu garde, etc.

Jean Albasini, actuellement Vice-Consul Portugais dans la République Africaine Méridionale

¹ Livre blanc, compte rendu et documents présentés aux Chambres pendant la session de 1873, par le Ministre des Affaires Etrangères du Portugal, p. 23.

² "Bulletin de la Province de Mozambique," No. 41, du 8 Octobre, 1864.

ayant proposé à ce Gouvernement Général d'établir une Colonie Portugaise sur les terres du régule Makaxulle, qui appartiennent maintenant à l'Etat en vertu de la donation faite par le dit Albasini, possesseur légal, lesquelles terres sont situées à cinq jours de voyage dans l'intérieur de la Baie de Lourenço Marques, au nord du 26° parallèle sur les bords du fleuve Save et s'étendent en largeur jusqu'au fleuve Incomate avec lequel elles confluent; et le même Albasini étant secondé dans son dessein par quelques Portugais résidant dans le district de Pretoria, de la dite République, ainsi que par quelques familles Hollandaises;

Considérant que ces terres étant situées à mi-chemin entre la frontière de la République et le district de Lourenço Marques, la Colonie qui s'y établirait devrait avoir un développement rapide, puisqu'elle deviendrait le point obligé du mouvement commercial des Boers avec la Baie de Lourenço Marques et vice-versa;

Considérant qu'il est très-utile et convenable d'augmenter la population Européenne de la province ainsi que d'y développer l'agriculture, attendu que ce sont les deux principaux moyens à l'aide desquels la même province peut atteindre à l'accroissement moral et à la civilisation, parvenir à se maintenir dignement par ses propres ressources et indemniser la métropole des grands et nombreux sacrifices qu'elle a faits jusqu'à présent et qu'elle continuera à faire en sa faveur;

Considérant que la formation d'une Colonie réunissant aux conditions de salubrité du terrain où elle doit s'établir, celles qui faciliteront et rendront florissant le commerce de cette partie de la province, a été déjà recommandée par Sa Majesté le Roi par décision du 26 Décembre, 1853;

Considérant l'urgence avec laquelle la demande m'a été faite, etc.;

Sur l'opinion favorable du Conseil du Gouvernement;

J'autorise provisoirement la formation d'une Colonie Portugaise sur les terres de Makaxulle, d'après les suivantes bases:

1. Le territoire de la Colonie est formé des terres qui ont appartenu au régule Makaxulle et qui, par un contrat légal d'achat, fait en 1845, sont devenues la propriété exclusive du citoyen Jean Albasini, lequel, par acte spontané du 8 Avril, 1868, en a fait donation au Gouvernement Portugais; elles sont situées à cinq jours de distance vers l'intérieur de la Baie de Lourenço Marques sur les bords du fleuve Save et s'étendent en largeur jusqu'au fleuve Incomate avec lequel elles confluent, et au nord du 26° parallèle.

2. Cette Colonie prendra le nom de "Colonie de Saint Louis," comme tribut de respect et d'hommage rendu par les nouveaux colons à Sa Majesté le Roi.

3. Les colons auront pleine liberté de suivre la religion qui leur conviendra.

4. Ils pourront faire toute espèce de commerce licite, en se soumettant au paiement des contributions légales que leur seront imposées.

5. Ils pourront chasser librement l'éléphant et les autres animaux.

6. Ils se conformeront aux dispositions des Articles 12, 13, 14, 16, 17 et à leurs §§ de la Loi du 21 Août, 1856.

7. Ils jouiront des avantages accordés par les Articles 18 et 20 de la Loi citée et par l'Article 5 du Décret, ayant force de loi, du 4 Décembre, 1861.

8. La Colonie est considérée, pour tous effets, comme partie intégrante de la Province de Mozambique; tous les colons étrangers seront donc soumis aux autorités Portugaises de la Colonie et aux lois du royaume.

9. Les colons devront concourir à la défense de la Colonie contre toute attaque de ses ennemis, et prêter leur concours aux autorités constituées.

10. Les agents nécessaires à un système de Gouvernement local approuvé par moi, seront choisis parmi les colons.

Les autorités et autres individus qui doivent avoir connaissance de la présente sont chargés de son exécution.

Fait au Palais du Gouvernement Général de la Province de Mozambique, ce 25 Mai, 1869.

Le Gouverneur-Général,

(Signé)

FERNANDO DA COSTA LEAL¹

(No. 12.)

Arrêté de la même date et du même Gouverneur, déterminant l'organisation de la Colonie de Saint-Louis.

(Traduction.)

Ferdinand Da Costa Leal, du Conseil de Sa Majesté, Commandeur de l'Ordre Militaire de Notre-Seigneur Jésus-Christ, Officier de l'Ordre très-Ancien et très-Noble de la Tour et de l'Épée consacré à la valeur, à la loyauté et au mérite, Chevalier des Ordres d'Aviz et de Notre-Dame de la Conception de Villa-Viçosa, Colonel d'Angola, Gouverneur-Général de la Province de Mozambique pour Sa Majesté le Roi, que Dieu garde, etc.

Attendu que le citoyen Jean Albasini, actuellement Vice-Consul Portugais dans la République Africaine Méridionale, a fait donation au Gouvernement Portugais, par Acte du 8 Avril, 1868, des terres qu'il a achetées en 1845 au régule Makaxulle;

Considérant que le même Albasini se propose avec d'autres Portugais habitant le district de Pretoria, de la dite République, et aussi avec quelques familles Hollandaises, d'établir une Colonie sur ces terres;

Considérant que, par décision datée de ce jour, j'ai autorisé provisoirement la création de la dite Colonie, sous la dénomination de "Colonie de Saint Louis;"

¹ "Bulletin de la Province de Mozambique," No. 24, du 29 Mai, 1869.

Considérant que le dit Jean Albasini réunit en lui toutes les qualités nécessaires pour diriger la Colonie :

Je nomme le susdit Jean Albasini chef par intérim de la Colonie de Saint Louis, avec les pouvoirs et l'autorité ci-désignés :

1. Comme magistrat administratif, il exercera toute l'autorité que lui confère le code administratif, dont un exemplaire lui sera envoyé.

2. Comme autorité judiciaire, il remplira les fonctions de juge de première instance, et à cet effet il lui sera remis un exemplaire du "Code de Procédure Civile et Criminelle," du "Code Pénal," du "Droit Civil," par Coelho da Rocha, et des "Eléments de Procédure," par Nazareth.

3. Il pourra faire concession provisoire au moyen de baux emphytéotiques, avec la rente annuelle de 100 réis par hectare, des terres de la Colonie, en donnant à chaque colon un carré de terrain mesurant la marche d'un homme pendant une heure, et en délivrant les titres respectifs de concession, dont il enverra ensuite une note pour faire expédier les titres définitifs.

4. Il fera légaliser par devant notaire les mariages civils contractés par les colons.

5. Il fera exécuter les dispositions testamentaires dans la forme désignée dans les testaments.

6. Il procédera à l'inventaire et à la garde en dépôt des biens des colons qui seront morts intestats, afin que ces biens puissent recevoir leur destination légale.

7. Il fera planter un mât sur la place centrale de la Colonie, près de sa résidence, pour y arborer le drapeau Portugais.

8. Il fera construire une caserne pour un détachement de 50 hommes.

9. Il tracera les rues et les places de la ville, de manière qu'elles soient suffisamment larges et régulières.

Sont chargés de l'exécution de la présente les autorités et les individus à qui revient ce devoir.

Donné au Palais du Gouvernement Général de la Province de Mozambique, ce 25 Mai, 1869.

Le Gouverneur-Général,

(Signé)

FERNANDO DA COSTA LEAL.¹

(No. 13.)

Proclamation du Gouverneur de Lourenço Marques, annonçant le résultat de la guerre entreprise en faveur de Mouzilla contre son frère Maouéva II, 20 Septembre, 1862.

(Traduction.)

*Palais du Gouvernement de Lourenço Marques,
le 20 Septembre, 1862.*

Habitants de Lourenço Marques,

La guerre qui, avec toute justice, a été entreprise contre le despotique et sanguinaire régule Maouéva qui se prétendait successeur du célèbre Roi Manicusse, a obtenu un glorieux triomphe, grâce aux combats du 17 et du 20 Août dernier dans les plaines de Moamba, au-delà du fleuve Incomati. Les pertes de l'ennemi ont été considérables ; de notre côté nous n'avons à déplorer que 47 de nos valeureux chasseurs tués et 50 blessés.

La constante persévérance et les efforts assidus et vigilants qui ont été employés, ainsi que les puissants secours fournis par son Excellence le Gouverneur-Général de la province, ont eu pour résultat la soumission au drapeau Portugais de cette vaste contrée, et aujourd'hui, grâce à la providence, la terreur que nos armes ont mis au cœur de nos sauvages ennemis est une sûre garantie de leur respect futur envers nos nationaux. Maouéva a réussi encore une fois à se réfugier sur le territoire du régule Mussuata, mais il n'a été suivi que de peu d'hommes ; la plupart, fatigués de souffrir, ont été se rendre à Mousilla.

Ce succès extraordinaire, qu'à première vue il semblait impossible d'obtenir en égard au peu de troupes dont nous pouvions disposer pour détrôner cet audacieux régule, est venu montrer à tous les yeux que nous n'avons pas perdu les glorieuses traditions de nos aïeux. De tous côtés les terres de l'intérieur sont libres ; d'ici jusqu'au Zambèze on pourra dorénavant circuler sans craindre les brigandages des Cafres. Aux félicitations que je vous adresse pour l'heureux résultat que nous avons obtenu, je joins mes plus sincères et cordiaux remerciements pour la patriotique sollicitude que j'ai toujours remarquée en vous pendant la lutte ; l'avenir démontrera les résultats profitables de cette guerre, et la postérité saura apprécier avec justice la longanimité dont nous avons fait preuve. Le régule Mouzilla, qui se trouve aujourd'hui à la tête de ce riche et vaste pays, doit son triomphe aux armes Portugaises ; par ce fait il est devenu sujet et tributaire de la Couronne de Portugal, condition qui lui avait été imposée par moi lorsqu'il vint, le 1^{er} Décembre, 1861, solliciter le concours de notre Gouvernement.

Il nous reste maintenant à rétablir une paix complète dans la contrée ; dès que nous y serons parvenu, ce qui ne peut tarder, chaque habitant Portugais pourra, muni de l'autorisation nécessaire, pénétrer dans l'intérieur, soit pour y faire le commerce, soit pour s'y livrer à la chasse.

Quelque assuré que je sois de votre modération, il me reste encore à vous recommander tout particulièrement de ne point abuser des succès dont je vous ai fait part, tout abus à cet égard pouvant porter un grave préjudice au bien-être du district et avoir des conséquences dont, dès ce moment, je vous rends responsables devant son Excellence le Gouverneur-Général de la Province. Vive le Roi ! Vive son Excellence le Gouverneur-Général de la Province !

(Signé)

ONOFRE LOURENCO DE ANDRADE, *Gouverneur.*²

¹ "Bulletin de la Province de Mozambique," No. 24, du 29 Mai, 1863.

² "Bulletin de la Province de Mozambique," No. 17, du 27 Avril, 1873.

Dépêche du Gouverneur de Lourenço Marques, communiquant le résultat de la guerre entreprise en faveur de Mouzilla, 2 Octobre, 1862.

(Traduction.)

Monsieur,

Quartier du Gouvernement de Lourenço Marques, le 2 Octobre, 1862.

Je suis on ne peut plus heureux de ce que les événements sont venu confirmer tout ce que j'eus l'honneur de vous mander dans ma dépêche No. 38, adressée par la section civile du 13 Août, 1861, au sujet du pervers et féroce régule Maouéva. Vous pourrez voir ces événements consignés dans la proclamation dont je sou mets une copie aux lumières de son Excellence le Général et Gouverneur-Général de la Province, proclamation que j'ai cru devoir adresser aux habitants de ce district, et qui leur causera une véritable joie ; pour moi, je désire avant tout qu'elle mérite l'approbation de son Excellence, ce qui me serait un grand honneur.

Maouéva a encore réussi à se réfugier sur les terres de son beau-frère Mussuata, toutefois il n'a pu se faire suivre que d'une faible partie de ses hommes, car la plupart d'entre eux, on me l'affirme en toute certitude, sont allés se présenter à Mouzilla et faire devant lui acte de soumission ; j'emploie cependant tous mes efforts à obtenir de quelques-uns de ces hommes qu'ils me livrent l'audacieux Maouéva, dans la persuasion où je suis que sa mort seule permettra le rétablissement de la tranquillité dans l'intérieur des terres. J'espère parvenir à ce résultat grâce au régule Mussuata lui-même, si j'en dois croire ce qu'il m'a fait dire par l'ambassade que je lui ai envoyée à cet effet, et qu'il a reçue avec les plus grandes démonstrations d'amitié, contrairement à ce qu'il aurait fait en toute autre occasion, d'où je conclus que la crainte seule de nos armes lui inspire cette hypocrite urbanité.

Il doit m'envoyer lui-même une ambassade pour traiter définitivement de cette affaire dont la solution, si je parviens à l'obtenir telle que je la souhaite, sera un gage de l'obéissance de cette vaste contrée au drapeau Portugais.

Les chemins sont maintenant partout libres. Le respect envers les Portugais est profond et on remarque déjà un grand mouvement commercial dans le pays. Presque tous les habitants sont partis pour l'intérieur, les uns pour affaires de commerce, les autres pour se livrer à la chasse. Ces derniers sont environ au nombre de douze cents, car, à l'exception de quelques employés, tout le monde ici est négociant ou chasseur, jusqu'aux nègres mêmes des terres de la Couronne.

Je suis en grande amitié et en parfait accord avec tous les Rois voisins de ce district, néanmoins, comme ce sont des nègres et que l'on ne doit pas se fier trop complètement à eux, je suis toujours sur mes gardes en vue d'un événement quelconque, quoiqu'il me semble qu'ils n'entreprendront rien, surtout maintenant qu'ils sont informés de la déroute de Maouéva. Le carnage et la destruction qui ont accompagné cette guerre ont frappé les nègres d'une telle terreur, que les régules mêmes qui sont restés neutres dans le conflit n'osent point bouger et ne viennent pas, dit-on, faire acte de soumission, dans la crainte d'être mis à mort. A ce sujet, je fais mon possible pour répandre la conciliation et la confiance, quoique, à l'instar des blancs, les nègres aient des représailles à exercer, comme cela arrive surtout dans les guerres de succession.

A moins qu'il ne survienne quelque événement imprévu, ce qui ne me semble pas probable, je crois que, de ce port au Zambèze, le Gouvernement pourra dorénavant faire ce que bon lui semblera, sans craindre d'être entravé dans ses mesures, attendu que nos armes ont soumis complètement ces contrées. A ce sujet je saisis l'occasion de recommander à la haute bienveillance de son Excellence le Gouverneur-Général de la Province, les chefs qui se sont le plus distingués dans cette campagne et qui sont : Quise, des terres de Matola ; Mauobo, des terres de Mahota ; Lotene, Magugo, de celles de Mafumo ; Massolene, de celles de Magaia ; Moamatine, de celles de Cherinda. Ces six nègres se sont conduits, je puis le dire, comme auraient pu le faire les meilleurs soldats ; ils ont suivi rigoureusement tous mes plans, toutes les instructions et tous les ordres que je leur ai donnés, dans les différentes guerres qu'ils ont entreprises, et qui ont eu pour résultat la chute de l'infâme Maouéva, et, par conséquent, la soumission de ces contrées au pavillon de notre pays. D'après les informations que j'ai pu recueillir, les troupes de Maouéva, dans ces dernières rencontres, s'élevaient encore à vingt ou vingt-cinq mille combattants, en y comprenant les soldats des régules ses amis ou alliés ; cette armée toutefois n'a pu tenir devant la valeur de nos troupes qui l'ont battue et mise en fuite partout où elle a osé se montrer, et lui ont fait subir de cruelles pertes.

L'agréable nouvelle que j'ai l'honneur de porter à la connaissance de son Excellence, le Gouverneur-Général de la Province, me semble de la plus haute importance pour le bien de la colonie, et je suis heureux que la gloire en revienne au petit district dont le Gouvernement m'a été confié.

Dieu garde, &c.

(Signé) ONOFRE LOURENCO DE ANDRADE, *Gouverneur*.¹

M. le Secrétaire du Gouvernement Général de la Province.

Conditions établies entre le Gouverneur de Lourenço Marques, représentant le Gouvernement de Sa Majesté Très-Fidèle, et le régule Mouzilla, en son nom et en celui de ses successeurs, pour l'obtention du secours qu'il a demandé au Gouvernement.

(Traduction.)

1. Le régule Mouzilla, après avoir prêté serment selon ses us et coutumes, sera tributaire et sujet de la Couronne Portugaise, lui et tous ses subordonnés, et il obéira strictement à tous les ordres émanés du Gouvernement de Lourenço Marques.

¹ "Bulletin de la Province de Mozambique," loc. cit.

2. Le dit régule enjoindra à tous ses subordonnés d'avoir le plus grand respect et la plus grande vénération pour les Molungos (Portugais) qui passeront par les territoires où lui, Mouzilla, exerce sa domination ; et si l'un d'eux manque à ce devoir rigoureux, Mouzilla lui infligera immédiatement un châtiment qui servira d'exemple aux autres ; cette disposition s'étend à tous les nègres des territoires de la couronne qui iront aux terres de Mouzilla en service public ou privé, et qui seront envoyés, soit par le Gouvernement, soit par quelque habitant du pays.

3. Le commerce et la chasse de n'importe quels animaux seront libres pour tout Portugais qui les fera ou fera faire sur les terres soumises à la domination du dit régule Mouzilla ; celui-ci, loin de leur faire obstacle, les protégera de tout son pouvoir.

4. Le régule Mouzilla ne s'opposera d'aucune façon, soit aux fortifications que le Gouvernement Portugais voudrait faire construire sur ses terres, pour leur défense et leur tranquillité, soit aux cultures sur une grande ou une petite échelle, que le même Gouvernement ou quelque particulier voudrait établir ou faire établir sur quelques-unes de ces terres qui leur conviendraient le plus ; et non-seulement le dit Mouzilla ne s'y opposera pas, mais encore il indiquera les terrains les plus propres à ces cultures, si on lui demande.

5. Le drapeau Portugais sera arboré dans le village habité par le dit régule Mouzilla ; celui-ci ne fera la guerre à aucun peuple sans informer préalablement notre Gouvernement du motif qui l'y contraint, à moins que ce ne soit dans un cas de défense contre une agression qui lui serait faite sur ses terres, auquel cas il devrait, néanmoins, en donner immédiatement avis au Gouverneur de Lourenço Marques.

6. Les terres de Moamba, Cherinda, Manhice et Iniote, en-deçà du fleuve Incomate, seront dorénavant sujettes et tributaires de la Couronne Portugaise, et personne autre n'aura le droit d'exiger des tributs de ces terres.

7. Les *milandos* (en langage Cafre) ou différends qui pourraient s'élever entre les blancs ou les nègres des terres de la couronne et les gens subordonnés à Mouzilla, seront vidés dans cette forteresse en présence du Gouverneur respectif, ou de la personne par lui déléguée à cet effet.

8. Aussitôt que le Roi Mouzilla aura pris possession de ces terres, il fera conduire à la forteresse tous les nègres esclaves des habitants de la même forteresse qui se seraient réfugiés dans ces domaines, et il continuera à agir de même toutes les fois qu'un ou plusieurs esclaves de la dite forteresse s'enfuiraient dans ces terres.

9. Enfin il est bien compris par le Roi Mouzilla que le respect et la vénération imposés par l'Article 2 doit s'étendre également aux Molungos (Portugais) de Inhambane, Sofala, Bazaruto, Manica, Sena et Tete, attendu qu'ils sont tous frères de ceux de Lourenço Marques.

10. Dès ce moment le Gouvernement Portugais s'oblige envers le Roi Mouzilla à l'aider de ses armes, lui et ses successeurs, chaque fois qu'ils auront à se défendre contre toute agression qui leur serait faite sur les terres qu'ils occupent ; sous condition que le même régule et ses successeurs observeront religieusement toutes les prescriptions établies par les articles précédents.

11. Le même Gouvernement Portugais s'oblige à faire construire, pour le dit régule Mouzilla et ses successeurs, une maison en maçonnerie (comme celles de la forteresse) dans le lieu de sa résidence.

12. Le Gouvernement Portugais s'oblige encore à faire élever, à ses frais, dans les écoles Portugaises, deux fils ou plus du dit régule Mouzilla, lorsque celui-ci voudra que cette éducation leur soit donnée.

Quartier du Gouvernement de Lourenço Marques,
ce 2 Décembre, 1861.

(Signé)

DIOCLECIANO FERNANDES DAS NEVES.

IGNACIO JOSE DE PAIVA RAPOSO.

JOSE DE SEQUEIRA CAMPELO, *Sous-Lieutenant*
chargé du Service.

ONOFRE LOURENCO DE ANDRADE.¹

(No. 16.)

Donation faite par la régule de Moamba de toutes ses terres et de celles des régules ses vassaux à la Couronne Portugaise, 2 Avril, 1805.

(Traduction.)

Ce 2 Avril de l'an 1805 de la naissance de Notre-Seigneur Jésus-Christ, dans cette Baie de Lourenço Marques, appelé par le Roi de Moamba à la maison de résidence du Gouverneur de la baie, il m'a été dit par le même Roi en langage *landina*, dans laquelle je suis versé à moi, Antoine Louis do Rosario, notaire dans cette baie, et par devant les autres témoins présents, que, sur les instances de Joseph Antoine Caldas, Gouverneur de cette baie, il céda et donnait gratuitement et pour toujours au domaine de Son Altesse Royale les terres de *Mafoumo*, *Mafoumo Branco* et *Palane* ; et pour confirmer cette déclaration il a fait appeler les régules Chalupana, Macompsana-Maxulenhara, Bamo, Mafundoana, Chitantana, Maparine, Esvori, Monhamela, Mafumo, Maslele, Madiangove, et Macotini, des mêmes terres, et il leur a dit qu'ils auraient à obéir désormais au Gouverneur de cette baie, attendu qu'il avait cédé les dites terres de Mafoumo, Mafoumo-Branco, et Palane à Son Altesse Royale le Prince Régent de Portugal. Après qu'ils eurent entendu cette déclaration, il leur a demandé s'ils étaient satisfaits de la donation qu'il faisait à Son Altesse Royale, ce à quoi tous ont répondu affirmativement, assurant qu'à partir de ce jour ils obéiraient aveuglement à tout ce qui leur serait ordonné, et ils ont ratifié cette déclaration par serment fait selon leurs usages. Ayant entendu cela,

¹ "Bulletin Officiel de Mozambique," No. 25, du 21 Juin, 1862.

le Gouverneur a dit au Roi de Moamba, qu'il acceptait la donation des dites terres au nom de Son Altesse Royale le Prince Régent, notre maître, et que, sous la condition de la bonne foi et de l'amitié avec lesquelles il avait traité, il lui promettait toute protection et faveur, parce que tels étaient les ordres qu'il avait reçus de son Général, et que Son Altesse Royale serait informée de la donation par l'entremise du même Général, à qui il allait en faire communication à la première occasion.

En foi de quoi j'ai rédigé le présent procès-verbal, signé par le Gouverneur, et, à la prière du Roi Moamba, par Daud Sessesse, comme interprète du même Roi, ainsi que par toutes les personnes qui étaient présentes. Fait par moi, Antoine Louis do Rosario, notaire dans cette baie.

(Signé)

JOSEPH ANTOINE CALDAS, *Gouverneur et Capitaine-Major*.

DAUD SESSESE (à la prière du Roi de Moamba).

FRANÇOIS ANTOINE DE SOUSA CESAR, *Lieutenant d'Artillerie en second*.

EMMANUEL MARTINS DAYAO, *Capitaine du Détachement*.

AMADO SAIBA, *Capitaine du Navire de Voyage*.

JOSEPH EMMANUEL DA SILVA, *Chirurgien-Major*.

CAETANO MANUEL PRATAS.

JOACHIM DA MOTA.

SALVADOR LEITE PEREIRA.

ANTOINE SOARES MAIA.

FRANÇOIS JOSEPH SEGUNDO.

ADRIEN DE CARVALHO.

Cette copie est fidèlement transcrite de l'original, qui se trouve au fol. 11 du livre de registre auquel je me rapporte, et elle a été faite par moi, Antoine Louis do Rosario, notaire, dans cette baie, ce 29 Avril, 1805.

(Signé)

ANTOINE LOUIS DO ROSARIO.¹

(No. 17.)

Extrait d'un Avis envoyé de Mozambique au Vice-Roi de l'Inde, Marquis de Castello Novo, en 1745.

(Traduction.)

On peut, et il est convenable d'envoyer *tous les ans* au Cap des Courants² un navire pour l'achat de l'ivoire, en observant dans ce voyage l'ordre et la forme usités *dans d'autres temps*, c'est-à-dire, que le capitaine sera obligé à faire le dit achat et à revenir pendant la mousson sans y laisser aucuns vêtements ou aucune chose déjà rachetée.³

(No. 18.)

Article IV du Traité de Paix du 6 Août, 1661, entre le Roi Alphonse VI de Portugal et les Etats-Généraux des Provinces-Unies des Pays-Bas, accordant aux Hollandais la liberté de commerce dans les Colonies Portugaises.

*Libertum quoque Foederatis Belgis esto, navigationem atque iter moliri in colonias omnes, insulas, regiones, terrarum tractus, portus, civitates, pagos, emporia, quotquot dicto regno (Portugalliae) parent ac subsunt per ditionem Africanam, cui ac censetur Sancti Thomae insula, inibique morari, negotiari ac mercaturam exercere, &c.*⁴

(No. 19.)

Note sur l'expulsion des Hollandais de la Baie de Lourenço Marques, sans nom d'auteur, 1744.

(Traduction.)

DEJA, en l'année 1728, un navire Hollandais avait été au même port (de Inhambane) pour y négocier et pour y établir une redoute de fascines sur la barre d'Inhulinga, ainsi qu'on l'a vu par les objets qu'il apportait dans ce but, "parce qu'il avait défait la factorerie qu'ils possédaient au Cap des Courants;" ce à quoi on n'a pas consenti "parce que les Cafres de ce pays étaient châtiés par une expédition qu'on envoya de Sofala pour brûler la bourgade du régule qui avait admis un autre navire de la même nation en l'année 1726;" et comme le navire qui sort de ce port (Mozambique) pour faire le commerce, rencontra le second navire Hollandais, il obligea aussi celui-ci à se retirer.⁵

¹ Archives du Ministère des Affaires Etrangères et de la Légation Portugaise à Londres.

² Voir la note 1 du document No. 19.

³ Volume de la collection manuscrite de M. Julio Firmino Judice Bicker cité à la page suivante, note 2.

⁴ Borges de Castro, "Collecção de Tratados, Convenções, Contratos e Actos Publicos Celebrados entre a Corôa de Portugal e as Mais Potencias," tome I. Lisbonne, 1856, p. 266.

⁵ La Baie de Lourenço Marques est souvent désignée dans plusieurs documents officiels et particuliers de Mozambique sous le nom d'établissement du Cap des Courants.

⁶ Dans la précieuse collection de manuscrits de M. Julio Firmino Judice Biker, Chef de Bureau du Ministère des Affaires Etrangères, volume intitulé "Governo da India e Africa Oriental, 1744."

(No. 20.)

Instructions données au Marquis de Castello Novo, Vice-Roi de l'Inde,¹ au sujet de la défense faite aux Hollandais de négocier dans la Baie de Lourenço Marques, 25 Mars, 1744.

(Traduction.)

§ 15. La même Compagnie Hollandaise a fait occuper pendant un an avec une semblable injustice, le Cap des Courants, sur la côte de Mozambique, où ses administrateurs ont été jusqu'à s'établir ; mais comme ils en furent chassés ensuite par les Cafres eux-mêmes, j'ai ordonné au Marquis de Louriçal de tâcher de fermer ce débouché aux Hollandais, aussi bien qu'aux autres nations de l'Europe, afin qu'ils ne pussent plus pénétrer par là dans le pays ; ce dont il résulterait un préjudice irréparable pour le commerce de Mozambique et Rios de Senna. Et comme ce que le Marquis a fait à cet égard, n'est pas arrivé à ma connaissance, je recommande cette affaire à vos soins, car je crois que vous en ignorez l'importance et les conséquences.

(No. 21.)

Extrait du Rapport du Lieutenant-Colonel Antonio José de Mello sur la Baie de Lourenço Marques, envoyé par le Gouverneur de Mozambique au Gouvernement Portugais, 19 Août, 1763.

(Traduction.)

Au nord de ce fleuve (Saint-Esprit) et près de la côte, dans une île nommée Quifina (*Chefine*) on voit les restes d'une fortification de forme quadrangulaire ; on dit que c'était une des factoreries Portugaises.²

(No. 22.)

Ordonnance du Ministre de la Marine pour faire évacuer l'Île de l'Unhaca, 15 Septembre, 1870.

(Traduction.)

Des négociations étant entamées entre le Gouvernement Portugais et celui de Sa Majesté Britannique relativement à la Baie de Lourenço Marques, à la totalité de laquelle la Couronne de Portugal croit avoir un droit exclusif ; comme il est juste que, jusqu'à la fin de ces négociations, l'île de l'Unhaca, ainsi que la partie du continent qui fait l'objet de la contestation, ne soient occupées par aucune des deux Puissances, Sa Majesté le Roi ordonne, par le Ministère de la Marine et des Colonies, que le Gouverneur-Général de la Province de Mozambique envoie, le plus tôt possible, des ordres pour faire retirer la garnison Portugaise de la dite île : ce qui sert de réponse à sa dépêche sur cet objet en date du 3 Avril dernier.

(Signé) SA DA BANDEIRA,³

Palais du Roi, ce 15 Septembre, 1870.

(No. 23.)

Dépêche du Gouverneur de l'Inde, du 30 Avril, 1778, faisant part de la tentative d'établissement des Autrichiens dans la Baie de Lourenço Marques.

(Traduction.)

Excellence,

Goa, ce 30 Avril, 1778.

Le directeur de notre nation résidant à Surrate m'a écrit pour me communiquer qu'un navire Autrichien de la Compagnie Autrichienne-Asiatique de Trieste était arrivé dans ce port, mais que les Anglais ne lui avaient pas permis de décharger ses marchandises, ni d'entreprendre des opérations commerciales.

Que Guillaume Bolts, Lieutenant-Colonel au service de leurs Majestés Impériales et Directeur-Général de la dite Compagnie, lui avait parlé afin qu'il écrivît au Gouverneur de Damão pour en obtenir la permission de faire le commerce dans ce port à la faveur de la franchise de quelques droits.

* * * * *

Le bruit a couru ici que le dit navire Autrichien a échoué dans la Baie de Lourenço Marques, et qu'il lui a fallu débarquer une partie de ses marchandises ; que le Directeur-Général avait acheté une certaine portion de terrain au Roi nègre de ce Continent : qu'il y avait établi un fort, y avait laissé quelques personnes pour le garder et le défendre, et l'avait pourvu d'artillerie et d'armes ; et cela dans le but d'aider les navires Autrichiens qui doubleraient le Cap de Bonne-Espérance, non-seulement à s'y ravitailler, mais encore à faire le commerce de l'Afrique Orientale, etc.

* * * * *

Cette nouvelle m'étant parvenue, j'ai pris la précaution de faire notifier au Directeur-Général de la Compagnie Autrichienne le protêt énonçant que le territoire et la côte de la Baie de Lourenço Marques appartenaient aux conquêtes et domaines de Sa Majesté Très-Fidèle, qu'on ne pouvait y construire de

¹ Ces instructions existent dans les Archives du Gouvernement de l'Inde Portugaise, livre des "Moussons," No. 117, et ont été publiées dans le "Chronista de Tissuary." Nova Goa, 1867, tome ii, p. 160.

² Archives du Ministère de la Marine.

fortifications ni prendre possession de ses terrains sans permission expresse de la Reine, notre Souveraine, et que je protestais en tout temps pour la conservation et la réparation des droits de Sa Majesté Très-Fidèle. Je prie votre Excellence de mettre tout l'exposé sous les yeux de Sa Majesté, afin que ce qu'elle ordonnera soit observé.

Dieu garde, &c.
(Signé) DON JOSEPH PIERRE DA CAMARA.¹

A son Excellence Martinho de Mello e Castro.

(No. 24.)

Dépêche du Ministre de la Marine en réponse à la précédente, datée du 15 Mars, 1779.

(Traduction.)

Dans deux lettres écrites de Goa, et datées, l'une du 28 et l'autre du 20 Avril de l'année dernière, Don Joseph Pedro da Camara, prédécesseur de votre Seigneurie, rapporte qu'un navire au pavillon Autrichien, commandé par Guillaume Bolts, Anglais, et Lieutenant-Colonel au service de la maison d'Autriche, après avoir doublé le Cap de Bonne-Espérance, est allé mouiller dans la Baie de Lourenço Marques, et que dans ces domaines, appartenant à la Couronne de Portugal, ce Bolts a acheté aux nègres du pays un terrain où il a établi un fort qu'il a garni de quelques pièces d'artillerie avec des munitions, y laissant aussi quelques hommes de son équipage pour le garder et le défendre.

Il ajoute qu'après cet attentat, ce navire est allé à Damão et dans d'autres ports du nord, et qu'étant enfin entré à Goa, le sus dit Guillaume Bolts a proposé un Traité de Commerce et de Navigation pour le port et la place de Damão, lequel Traité ayant paru avantageux au dit Don Joseph Pedro de Camara, aussi bien qu'au Comité Royal des Finances, a été conclu le 10 Avril de l'année dernière (1778), conformément à la copie ci-jointe.

Il rapporte enfin, qu'en ce qui concerne ce que Guillaume Bolts avait pratiqué dans la Baie de Lourenço Marques, le même Don Joseph Pedro de Camara avait eu la précaution de faire notifier au dit Guillaume Bolts le protêt énonçant que le territoire de la côte de la Baie mentionnée de Lourenço Marques appartient aux domaines de la Couronne de Portugal, et qu'on ne peut construire de fortifications dans ces districts, ni prendre possession de leurs terrains sans permission expresse de la Reine, notre Souveraine ; et qu'il protestait en tout temps en faveur de la conservation et de la réparation des droits de Sa Majesté Très-Fidèle.

Il est très probable que Guillaume Bolts retourne à Goa attiré par le succès de sa précédente négociation, et que, trouvant les choses changées, il veuille entrer avec vous dans des discussions désagréables ; mais vous devez les éviter, vous bornant à lui déclarer en termes courts et précis :

Que la Reine, notre Souveraine, vous ayant confié ce Gouvernement, et que trouvant qu'on y avait signé un document imparfait sous forme de Traité, sans ordre, ni pouvoir, ni autorité, vous l'avez déclaré nul et sans effet ; et que, apprenant qu'un fort avait été bâti sur les domaines Portugais de la côte de l'Afrique Orientale, vous l'aviez fait détruire, vous trouvant dans la ferme résolution de traiter comme ennemi de la Couronne de Portugal quiconque à l'avenir commettrait de semblables attentats. Vous devez montrer en tout cela que vous agissez de votre propre autorité en vertu des devoirs de la charge que vous remplissez et sans avoir reçu, ni avoir besoin de recevoir aucun ordre de cette cour ; en conformité de quoi vous devez faire traiter Guillaume Bolts avec la plus grande indifférence, afin qu'il se persuade que vous le voyez avec déplaisir dans le port, et que, reconnaissant l'inutilité de ses ruses, comme précédemment, il en sorte ; vous aurez soin d'avertir les Gouverneurs de Diu et de Damão, afin qu'ils en agissent de même avec lui.

Ce Guillaume Bolts a commencé par être commis d'une maison de commerce Anglaise, établi dans cette capitale. D'ici il s'est rendu à Londres, où il est entré au service de la Compagnie des Indes. Il y a acquis une fortune considérable, qui lui a été séquestré par cette Compagnie, ce qui a donné lieu entre elle et lui à un grand procès à la suite duquel il a perdu toute sa fortune et a dû quitter Londres.

De retour dans cette capitale, il y a quatre ou cinq ans, il a cherché à obtenir un brevet de Consul-Général du Portugal en Orient, et a proposé en même temps divers projets pour le commerce d'Asie ; ces projets furent rejetés, le brevet fut refusé, et le dit Bolts reconnu pour un homme dangereux, quoique habile, et qui cherchait à recouvrer ce qu'il avait perdu à Londres aux dépens de ceux qui se laisseraient tromper par ses manœuvres. Voyant qu'il était trop bien connu dans cette capitale pour pouvoir y faire fortune, Bolts passa à Vienne et de là à Trieste, où il entraîna quelque commerçants à armer un navire dont ils lui donnèrent le commandement.

Il est encore revenu avec son navire dans le port de cette capitale, où il a essayé diverses négociations commerciales qu'on a entravées par des moyens indirects. D'ici il est parti pour l'île de Madère dans le but d'y acheter des vins, ce qu'il n'a pu effectuer. Ayant pris dernièrement la route de l'Orient, il trouva dans nos possessions cette légèreté et cette imprudente crédulité qu'il n'avait pu rencontrer sur aucun autre point, pas même chez les infidèles.

Le but que se propose le dit Bolts, ainsi qu'il appert des pouvoirs qu'il a obtenus de la Cour de Vienne et qui sont contenus dans la copie ci-jointe, doit être de négocier des Traités, d'obtenir des privilèges et des concessions pour fonder des établissements, sans s'embarrasser de leur stabilité, et de se munir de tous ces titres, bons ou mauvais, afin de pouvoir montrer à la Cour de Vienne, à son retour à Trieste, les avantages que ses vassaux peuvent en retirer si l'on fait à Trieste de plus grands efforts pour consolider, continuer et augmenter les premiers établissements qu'il a fondés, surtout dans nos

¹ Archives du Ministère de la Marine.

domaines de la Baie de Lourenço Marques, Damão et Goa, qui leur rendent facile le commerce de la côte Orientale d'Afrique, de Cambaia et de la côte du Malabar.

A sa grande connaissance du commerce de l'Asie, Bolts, joint assez d'adresse, de ruse et d'activité pour arriver à déterminer peut-être la Cour de Vienne à former, d'après ses idées, une Compagnie à Trieste, même au risque de partager le sort de celle d'Ostende. Et comme il ne convient nullement que les domaines de cette Couronne soient en butte aux entreprises et aux machinations de Guillaume Bolts, il devient de tous points nécessaire de les faire échouer dès leur origine de la manière indiquée plus haut, et avant qu'elles ne prennent plus d'importance.

Dieu garde, &c.

(Signé)

MARTINHO DE MELLO E CASTRO.¹

Palais de Notre-Dame d'Ajuda, ce 15 Mars, 1779.

(No. 25.)

Dépêche du Gouverneur de l'Inde apprenant au Ministre de la Marine, qu'il a fait partir une expédition pour chasser les Autrichiens de la Baie, 20 Janvier, 1781.

(Traduction.)

Excellence,

Goa, ce 20 Janvier, 1781.

Dans sa lettre du 15 Mars de l'année dernière, votre Excellence me communique que, par la lettre qu'elle m'a adressée le 15 Mars, 1779, et qui commence par ces mots : " Dans deux lettres écrites de Goa . . . " elle me mettait au fait de tout ce qui s'était passé à l'égard du nommé Guillaume Bolts, se disant officier au service de la maison d'Autriche, et commandant d'un navire qui, sous pavillon Impérial, est allé établir dans la Baie de Lourenço Marques un fort muni d'artillerie et pourvu d'une garnison militaire.

Que dans cette même lettre il m'était ordonné de faire détruire et raser le dit fort, attendu que sa construction était un attentat à notre souveraineté, commis sur les domaines Portugais de l'Afrique Orientale.

Qu'on avait su dans la capitale qu'après avoir parcouru plusieurs ports d'Asie, le dit Guillaume Bolts était retourné à Trieste avec son navire suffisamment chargé, ayant envoyé précédemment un autre navire aussi chargé au même port.

Qu'on avait su, en outre, qu'on s'y occupait beaucoup de former une compagnie pour le commerce de l'Asie ; que si cette compagnie expédiait des navires, l'établissement fondé par Bolts sur les domaines Portugais existant encore, il deviendrait p^ris difficile de les en chasser, et que, par conséquent, je dois, sans perdre de temps, exécuter les ordres de Sa Majesté, ainsi qu'il m'a été enjoint dans la dite lettre.

Que dans le cas où j'aurais besoin de quelques trou^pes de Mozambique, ce port, étant le plus prochain, Sa Majesté avait ordonné d'y former un régiment.

Par ma lettre du 28 Janvier de l'année dernière (1780), qui commence par ces mots : " Dans la lettre de votre Excellence du 15 Mars . . . " j'ai répondu et j'ai rendu compte à votre Excellence de l'exécution que j'avais donné aux ordres de Sa Majesté, lui apprenant que j'attendais encore à cette année pour voir si les dits établissements s'évanouissaient d'eux-mêmes, ainsi qu'on le disait, ou si au contraire l'on continuait dans les mêmes projets pour, dans ce cas, envoyer une expédition à la dite baie, afin de raser le fort susdit.

Sur l'assurance que différents navires, portant pavillon Impérial, faisaient le commerce dans l'Afrique Orientale et en Asie, j'ai fait partir la frégate de guerre " Sainte-Anne," commandée par le Capitaine de vaisseau Nicolas Delgado Figueira da Cunha de Eça, après y avoir embarqué une compagnie d'infanterie, une compagnie de la Légion des Volontaires Royaux et un détachement d'artillerie avec des pièces de campagne et des munitions ; j'ai chargé du commandement des troupes de débarquement le Lieutenant-Colonel de la même Légion, Joachim Vincent Godinho de Mira, lui ordonnant, conformément aux ordres de Sa Majesté, d'opérer le débarquement aussitôt qu'il serait arrivé devant le dit fort ou maison fortifiée, de l'attaquer énergiquement, de détruire et de raser tous établissements ou fortifications, de faire sentir aux nègres du pays qu'ils encourraient la colère de Sa Majesté chaque fois qu'ils permettraient à une nation quelconque de s'établir dans les domaines de cette Couronne ou de faire des opérations commerciales sur cette côte, et, enfin, de conduire à Goa la garnison qui s'y trouverait.

J'ai écrit au Gouverneur et Capitaine-Général de Moza mbique pour qu'il prêtât son concours à cette expédition en lui fournissant une compagnie d'infanterie, des pilotes, des munitions et tout ce qui semblerait nécessaire.

Dans le but d'empêcher que ces mesures ne deviennent inutiles dans l'avenir, j'ai cru devoir, par précaution, ordonner, d'une part, au Gouverneur de Diu de réunir les marchands de cette place qui envoient tous les ans cinq navires pour faire le commerce de Mozambique, et de les déterminer à envoyer un ou deux de ces navires alternativement pour faire le trafic sur le territoire de la dite Baie de Lourenço Marques ; d'autre part, engager le dit Gouverneur et Capitaine-Général à prendre les mesures propres à persuader aux commerçants de cette ville de suivre la même conduite et d'aller ou d'envoyer faire le commerce avec les nègres de ce pays ; . . . et surtout d'envoyer une embarcation (*palla*) armée en guerre pour garder la côte de la baie et empêcher le commerce des nations étrangères et leur défendre l'usurpation des domaines Royaux.

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Dieu garde, &c.

(Signé)

DON FREDERIC GUILLAUME DE SOUSA.¹

A son Excellence Martinho de Mello e Castro.

Dépêche du Gouverneur de Mozambique au Ministre de la Marine, lui donnant connaissance du résultat de l'Expédition, 18 Août, 1781.

(Traduction.)

Excellence,

Mozambique, ce 18 Août, 1781.

J'ai rendu compte à votre Excellence de l'état dans lequel se trouve ce pays et son Gouvernement; je saisis maintenant l'occasion de communiquer à votre Excellence qu'au mois d'Avril il est arrivé ici une frégate de Goa avec trois compagnies, une de cipayes, une d'infanterie et une d'artillerie. Cette frégate nous apportait l'ordre de lui fournir ici une autre compagnie de cent hommes et une ou deux embarcations pour les transporter jusqu'à la Baie de Lourenço Marques. Cet ordre n'a pu être mis à exécution car à ce moment il n'y avait pas ici un seul navire, tous ceux que nous avions ayant été chercher des vivres à Quilimane. L'expédition qui devait partir de cette capitale n'a donc pu avoir lieu, mais nous étions bien sûrs qu'il n'était pas nécessaire de déployer tant de forces. En effet, la frégate "Sainte Anne" s'est rendue seule au Cap des Courants, et y ayant trouvé deux navires (*pallas*) Impériaux et une corvette Anglaise, elle les a pris et conduits dans ce port afin de les faire partir pour Goa, sauf la corvette Anglaise, à laquelle on a laissé la liberté de retourner à Bombay. La frégate y a trouvé aussi une corvette Anglaise avec pavillon Portugais et munie d'un passeport du Gouverneur de Damão; elle l'y a laissée en paix, sous condition qu'elle viendrait à Mozambique; jusqu'à présent, toutefois, cette corvette n'est pas arrivée.

Après le succès de l'expédition et la mort du général mon prédécesseur, ayant en vue les instructions envoyées à ce Gouvernement par le Gouverneur de l'Inde, et le plaisir qu'aurait Sa Majesté à conserver et à établir le commerce de ce port considérable, j'ai acheté immédiatement pour le compte de l'Etat la corvette de Silvestre Alvares de Moura, qui, venant des Iles de France a relâché à Quilimane, où son propriétaire est mort ainsi que presque tout l'équipage, et qui s'est rendue ensuite à cette capitale pour y être vendue par l'administration des défunts et absents. Elle a été achetée au prix peu élevé de 16,000 cruzades (35,550 fr.), quoique, n'étant pas grée, il faille dépenser encore 8,000 cruzades (17,775 fr.); elle est neuve, et faite de bon bois. Elle jauge trois cents tonneaux, et convient beaucoup au service de ce port.

Si Sa Majesté n'approuve point cet achat, je n'hésite pas à me rendre responsable de sa valeur et à garder pour moi le navire; cependant je l'ai acheté pour profiter de cette bonne occasion et pour l'envoyer avec un chargement des commerçants, soixante soldats, les ouvriers nécessaires, un gérant, et un Commandant avec toutes les munitions dont cette place pourra avoir besoin, afin d'y établir une factorerie comme celle des Autrichiens avec une tranchée et un fort. . . J'ai aussi l'intention d'envoyer tous les six mois un navire de cette place, afin d'y continuer le commerce qui se trouve presque paralysé depuis neuf ans, ce qui fait que les nègres de ce pays n'ont plus pour nous autant d'affection qu'autrefois. C'est ainsi qu'un navire de Victorien Joseph Garcia étant allé l'année dernière négocier dans ce port avec la réduction de 8 pour cent des droits, les Cafres l'ont pillé et en ont tué quelques hommes; ce qui d'ailleurs est peut-être l'ouvrage d'un administrateur des Autrichiens, M. Pollet, qui s'y trouvait alors. Cette affaire me semble fort avantageuse pour Sa Majesté, et si je réussis, je serai heureux d'avoir rendu ce service à ma Souveraine.

C'est tout ce que j'ai à dire à votre Excellence en attendant l'arrivée du vaisseau: je suis persuadé qu'il a fait le tour de Madagascar. Par le navire de François de Paula j'exposerai à votre Excellence ce que je ne puis lui dire maintenant.

Dieu garde, &c.

(Signé)

VICENTE CAETANO DA MAIA E VASCONCELLOS.¹

Dépêche du Gouverneur de l'Inde au Ministre de la Marine, sur la réussite de l'Expédition, 14 Mars, 1782.

(Traduction.)

Excellence,

Goa, ce 14 Mars, 1782.

Par ma lettre du 20 Janvier de l'année dernière qui commence: "Dans votre lettre du 15 Mars," . . . j'ai communiqué à votre Excellence que j'avais fait partir la frégate de guerre "Sainte Anne," et que j'avais nommé Commandant des troupes de débarquement Joachim Vincent Godinho de Mira, Lieutenant-Colonel de la Légion des Volontaires Royaux. La frégate portait les hommes, les munitions et les engins de guerre nécessaires à un débarquement dans la baie de Lourenço Marques, et le Commandant avait l'ordre de raser et de détruire l'établissement et les fortifications qui y auraient été établis par Guillaume Bolts, soi-disant officier au service de la maison d'Autriche, et de ramener la garnison à Goa. Je disais encore que j'avais écrit au Gouverneur et Capitaine-Général de Mozambique lui enjoignant de fournir à l'expédition le concours d'une compagnie d'infanterie, des pilotes et tout ce qui serait nécessaire.

A son arrivée à Mozambique, le Lieutenant-colonel n'a pas reçu le renfort de la compagnie d'infanterie, il a fait voile vers la baie, et a touché au port d'Inhambane pour y prendre des pilotes. Il a continué son voyage et s'est bien acquitté de sa commission; car, à son arrivée à la dite baie, voyant sur le rivage un fort ou batterie de treize canons, avec drapeau impérial, il a opéré la descente et a fait amener le dit drapeau et arborer celui de Sa Majesté. Il a fait raser la batterie jusque dans ses fondements et transporter l'artillerie à bord de la frégate.

Le même lieutenant-colonel ayant trouvé sur le chantier deux petites embarcations, dont l'une

¹ Archives du Ministère de la Marine.

était en construction et l'autre en réparation par ordre de Bolts, les fit mettre en pièces pour servir de bois à brûler pour les besoins de la frégate.

Le dit lieutenant-colonel commandant, ayant su que Bolts avait construit un chantier dans l'île de l'Unhaca, jeta l'ancre tout près de cette île. Comme il ne pouvait faire embarquer les pièces de bois à cause de l'embaras qu'elles causeraient à bord de la frégate, il y fit mettre le feu et détruisit le chantier.

Dans l'instruction que j'ai donnée au dit commandant, document ci-joint, n° 1, je lui ai ordonné, pour le cas où il trouverait dans la dite baie quelques navires appartenant à Bolts, de les saisir comme faisant partie de l'établissement, et de les faire conduire au port de cette ville, emmenant avec lui tous les hommes qu'il trouverait et dans le fort et à bord de ces navires.

Je lui ai encore ordonné que, dans le cas où il viendrait à savoir que les Anglais fréquentaient ce port avec des navires pour y faire le commerce sans la permission de Sa Majesté, il leur enjoignit de quitter le port et d'abandonner ce commerce, procédant par trois intimations et admonestations, ainsi qu'il appert de la même instruction. Le Lieutenant-Colonel commandant a trouvé dans la baie et dans le fleuve deux navires (*pallas*), l'un nommé "Prince Ferdinand" et l'autre "Comte de Proli," portant pavillon impérial. L'un d'eux avait à son bord André Daniel Pollet, nommé par Bolts nouveau directeur de cet établissement. Il a fait réparer les deux navires et a donné le commandement de l'un au Capitaine-Lieutenant François Xavier Lobo da Gama, et celui de l'autre au Capitaine-Lieutenant Candido Joseph Mourão, avec ordre de les conduire à Goa. Dès leur arrivée, j'ai ordonné au juge des procès de la couronne et des finances de procéder à l'inventaire exact, au séquestre et au dépôt de ces navires, de leurs appareils et de leurs chargements, qui consistaient en avoir, en verroterie et autres articles. Une partie de ces chargements a été vendue à l'enchère pour ne pas en diminuer le prix; le produit de la vente est resté sous séquestre et en dépôt jusqu'à la royale décision de Sa Majesté.

Le Lieutenant-Colonel commandant, ayant trouvé dans les eaux de la baie un navire portant pavillon Portugais et muni de lettres du Gouverneur de Damão, dont le propriétaire et les armateurs étaient des sujets de Sa Majesté Britannique demeurant à Surrate, et qui avait pour Capitaine Etienne Pit, lui a laissé faire le commerce librement.

* * * * *

J'ai accordé aux hommes composant les équipages des navires impériaux la liberté de rester dans la colonie, ou d'aller, où bon leur semblerait. La plupart d'entre eux sont partis pour différents ports. Je rends compte du tout à votre Excellence, afin que Sa Majesté en prenne connaissance, et ordonne ce qui lui semblera bon.

Dieu garde, &c.

(Signé)

DON FREDERICO GUILHERME DE SOUSA.¹

Son Excellence Martinho de Mello e Castro.

ANNEXES AU No. 27.

No. 1.

Votre Excellence a bien voulu me nommer commandant de l'expédition, qui a été envoyée au Cap des Courants dans la baie de Lourenço Marques et au fleuve du Saint-Esprit, dans le but de raser tout établissement que l'Autrichien Guillaume Bolts aurait fondé sur ce point de l'Afrique Orientale, sur des territoires usurpés au domaine de Sa Majesté Très-Fidèle, portant ainsi atteinte aux grands avantages que ses sujets peuvent retirer du commerce de cette côte si propre à leur procurer les plus grands profits.

Dans ce but j'ai reçu, avec l'instruction de votre Excellence, que je renvoie ci-jointe, l'ordre de m'embarquer le 19 Janvier, 1781, avec mes troupes sur la frégate "Sainte-Anne" destinée à ce voyage que j'entreprenais dès le lendemain, faisant, par ordre de votre Excellence, ma première échelle au port de Mozambique, où nous sommes entrés le 20 Février. J'avais pour le Gouverneur de cette place, François Joseph de Vasconcellos, des lettres de votre Excellence relatives à l'expédition dont j'étais chargé, et conformément à mes instructions, je lui demandai quelques petites embarcations, des pilotes, et de la troupe. Aussitôt que j'abordai cette matière, il me dit qu'il était au courant de l'affaire, qu'il attendait déjà l'expédition à la mousson de l'année antérieure d'après des ordres qu'il avait reçus de la capitale à ce sujet, et qu'il pourvoirait à tout en conformité de ces mêmes ordres. Je renouvelai mes instances le jour suivant, dans la crainte qu'un retard imprévu ne me fit perdre la mousson du sud, qui s'était déjà déclarée. Dans cette seconde entrevue, le Gouverneur, au lieu de prendre les mesures qui lui étaient dictées, me répondit avec une froideur extrême, me faisant part de ses hésitations et alléguant le manque de certaines choses nécessaires. Il me dit enfin qu'il pourrait me fournir tout au plus quarante hommes, attendu qu'un grand nombre de soldats étaient morts et que d'autres se trouvaient malades; que quant à ceux qu'il pourrait me fournir, il me faudrait même compléter leur armement; qu'à l'égard du navire nécessaire au transport de cette troupe, il ne pouvait le fournir n'ayant à sa disposition qu'une corvette de l'Etat, qui même ne se trouvait pas alors à Mozambique. Ayant réfléchi que le nombre d'hommes qu'il me donnait était insuffisant, qu'ils étaient mal armés et que je n'avais pas de navire pour les transporter, et la frégate, destinée à des climats brûlants et insalubres, ayant déjà à son bord plus de monde qu'elle ne devait en porter, je me résolus à partir, et je pris un Maure pour pilote. Le Gouverneur m'assura que c'était le seul pilote qu'il y avait, et il était en si mauvaise santé qu'il mourut le treizième jour après notre départ.

Il m'était ordonné par l'Article 4 de mes instructions que, dans le but d'obtenir des informations plus précises sur l'année de la fondation du comptoir par Guillaume Bolts, je fisse en sorte de me

renseigner auprès de Victorino Joseph Garcia, car on savait qu'il avait envoyé l'année précédente un de ses navires faire le commerce en cet endroit. Mais tout ce que je pus apprendre de ce négociant, c'est que ce navire n'était pas encore retourné à Mozambique, et que les lettres de son capitaine lui annonçaient que les Cafres du pays mettaient à son commerce des obstacles qu'il croyait soulevés par l'administrateur des Autrichiens, qui voulait prélever sur les marchandises chargées à bord du même navire des droits que le capitaine n'avait pas voulu payer; qu'à cause de ces obstacles, le navire était sorti du port sans y avoir négocié, et que le capitaine avait eu le malheur de voir une partie de son équipage massacré par les Cafres et avait été obligé de payer la rançon de quelques autres de ses hommes qui avaient été faits prisonniers. Tous ces détails sont consignés dans la lettre écrite à Victorino Joseph Garcia par le capitaine de son navire, Gonçalo Coelho Pinto.

J'ai quitté Mozambique le 3 Mars, sans avoir reçu de cette capitale d'autres secours que ceux que j'ai mentionnés, et je me suis dirigé, espérant trouver un pilote et des renseignements, vers les îles de Bazaruto, où Victorino Joseph Garcia disait que son navire devait se trouver. J'arrivai le 15 aux îles, et, comme je n'y trouvai pas le navire, je pris des informations sur son compte. J'appris qu'il était parti pour Inhambane, et comme ce port était sur ma route et qu'une des principales recommandations de votre Excellence était d'employer tous mes efforts pour trouver de bons pilotes, je me décidai à me mettre à la recherche du navire en touchant à ce port, où j'arrivai le 18 du même mois. Je n'y rencontrai plus ce navire, qui était déjà parti pour les îles Maurice. J'écrivis au Gouverneur d'Inhambane lui demandant des pilotes et il m'en envoya deux, qui étaient Portugais. L'un d'eux était le pilote d'un bâtiment Français qui avait naufragé un mois auparavant; l'autre était le contre-maître du navire de Victorino, qui était resté à terre lorsque ce navire avait mis à la voile pour les îles de France. Je partis d'Inhambane le 19 Mars, et j'entrai le 30 dans le fleuve du Saint-Esprit, n'ayant pu passer qu'au moyen de nombreux et difficiles sondages au milieu des bas-fonds dont la baie de Lourenço Marques est remplie. Trois navires à voiles carrées étaient à l'ancre dans ce fleuve; l'un portait pavillon Portugais et avait un passe-port délivré par le Gouverneur de Damão, Joseph de Oliveira Leitão, l'autre portait pavillon Anglais. Les propriétaires du premier sont de Surrate, et ceux du second de Bombay. Enfin le troisième navire, qui était une *palla* à un mât, portait pavillon impérial et appartenait à la Compagnie de Trieste. Je mouillai entre ce navire et une batterie de treize canons qui était sur le rivage et qui avait aussi le pavillon impérial. Aussitôt que je fus à l'ancre, je disposai ma troupe pour exécuter les ordres de votre Excellence contenus dans mes instructions, et j'envoyai une partie de mes soldats avec leurs officiers pour s'emparer du navire qui portait le pavillon impérial. Mes gens étaient armés pour le cas où on leur eût fait résistance et ils avaient l'ordre, dans le cas contraire, de ne commettre aucune hostilité: ce qui fut exécuté. Le navire fut pris sans la moindre résistance. Je laissai à son bord pour le commander le Capitaine-Lieutenant François Lobo da Gama avec un équipage suffisant, je me dirigeai moi-même avec quelques troupes vers la batterie de terre où j'entrai sans combat, et je fis amener le pavillon impérial. Le lendemain, 1 Avril, je fis hisser le pavillon Portugais que je saluai de vingt-et-un coups de canon, salve qui fut répétée par la frégate. Ensuite, je fis donner le signal de la corvée, démonter et transporter l'artillerie à bord de la frégate, et démolir la batterie. J'envoyai alors les deux Lieutenants de Marine Candido Joseph Mourão et Christovão da Costa Athaide à bord des deux autres navires qui se trouvaient dans la baie pour prendre connaissance de leur chargement et tâcher de découvrir, par l'examen du livre de chargement, si ces navires étaient la propriété de Guillaume Bolts ou de sa Compagnie. Ces lieutenants me dirent qu'ils n'avaient rien trouvé dans le livre ni dans l'examen particulier auquel ils avaient procédé qui pût indiquer que ces navires appartenissent à M. Bolts. Ceci vérifié, "je fis savoir par plusieurs lettres au pilote qui commandait la corvette portant pavillon Anglais" (en remplacement du capitaine qui était mort en cet endroit), "que mes instructions ne me permettaient d'admettre dans ce port que des navires Portugais, attendu que Sa Majesté Très-Fidèle, qui en est la souveraine et la maîtresse, défendait l'accès de ses ports de l'Afrique Orientale aux navires étrangers qui allaient pour y faire le commerce." Il me représenta l'impossibilité où il était de partir avec la promptitude qui lui était ordonnée, et comme cette correspondance dura quelques jours, le 5 Avril je lui fixai un délai de huit jours pour se préparer à partir, lui promettant de lui fournir ce qui lui serait indispensable, et ce qu'il me serait possible, autant pour mettre sa corvette en état de prendre la mer, que pour lui faire éprouver le moins de préjudice possible dans son commerce, attendu que quelques embarcations qu'il avait envoyées dans l'intérieur n'étaient pas encore revenues, et ne devaient pas revenir avant huit jours. Je parai à cet inconvénient en persuadant au capitaine du navire qui avait le passe-port et le pavillon Portugais, et auquel j'avais concédé la faculté de négocier librement, de s'engager à recevoir toutes les marchandises qui seraient rapportées de l'intérieur des fleuves à destination de la corvette Anglaise, à les prendre à son bord et à les remettre à leurs propriétaires respectifs à Bombay ou à Surrate, ce à quoi le dit Capitaine Etienne Pit s'engagea par une déclaration écrite. Le même Etienne Pit fit une autre déclaration par laquelle il s'obligeait à transporter à Mozambique toutes marchandises appartenant à M. Bolts, qui, pendant son séjour, seraient envoyées de l'intérieur des fleuves à cet établissement. Jusqu'au 13 Août, date de ma sortie de Mozambique, le dit Capitaine Etienne Pit n'y était pas encore arrivé. Je restai à l'ancre dans le fleuve du Saint-Esprit jusqu'au 25 Avril, pour voir s'il arrivait quelque navire, profitant ainsi du temps dont je pouvais disposer en attendant la mousson pour retourner à Mozambique suivant mes instructions, et je réservai pour le moment de mon départ la démolition d'un chantier que j'appris que Guillaume Bolts avait à l'Unhaca. Je fis aussi mettre en pièces pour servir de bois pour la consommation de la frégate deux petites embarcations qui étaient dans le port à l'intérieur du fleuve, et dont l'une était en construction et l'autre en réparation pour le compte de Guillaume Bolts. Je sortis du fleuve le jour susdésigné, et le 27 du même mois, après avoir jeté l'ancre près de l'île de l'Unhaca, je fis débarquer quelques troupes avec deux canons de petit calibre. La descente n'était pas encore effectuée, que l'on aperçut de terre un grand navire qui se dirigeait vers le port. Aussitôt, comme quelques troupes étaient encore dans les embarcations, je les fis revenir à bord sous le commandement du Lieutenant de Marine Candido Joseph Mourão, et je communiquai au capitaine du vaisseau qu'il y avait un navire en vue et qu'il devait aller le reconnaître

avant qu'il pût entrer dans le fleuve, et le capturer s'il portait pavillon impérial, suivant les ordres que j'avais reçus de votre Excellence. Il fut en effet capturé, car ce navire conduisait le nouveau directeur, qui allait prendre possession de cet établissement, et le précédent qui, s'étant retiré à cause de quelques contestations, venait de Bombay pour faire la remise de sa charge : ce dernier était André Daniel Pollet, fils d'Allemands, né à Lisbonne d'où il est venu sur le navire "Joseph et Thérèse" avec le même Bolts ; l'autre est un Lorain. Tous deux furent mis à bord de la frégate où il leur fut enjoint de retourner à Goa, ce à quoi ils se conformèrent après quelques protestations. Une garnison avec ses officiers fut mise à bord de la *palla* sous les ordres d'un officier de marine. Tandis que cela se passait à bord de la frégate, je n'étais pas oisif à terre ; car, dès mon débarquement, un grand nombre de Cafres s'étaient réunis sur le rivage, ils étaient presque tous armés, une grande partie d'entre eux parlaient Portugais. Ces Cafres m'observèrent avec beaucoup de curiosité, puis, me faisant des compliments de la part de leurs rois, ils m'invitèrent à me rendre dans l'intérieur du pays, où ces rois m'attendaient pour me parler ; ils voulurent en même temps me persuader de ne point emmener avec moi tout mon monde, vu que cela leur causerait de la méfiance. Je leur répondis que si leurs chefs désiraient me parler, ils pouvaient venir vers moi, et que je les attendrais dans cette maison (que je connaissais déjà pour être le dépôt de bois de Bolts), où j'allais établir mon quartier. Un des rois ne tarda pas à venir avec une nombreuse escorte, et après d'ennuyeux compliments faits à sa manière, il insista d'une manière importune pour que je n'allasse pas à ce dépôt, m'offrant enfin de me faire construire une grande hutte, où je serais plus à mon aise. Je le remerciai de la peine qu'il voulait prendre et je m'acheminai vers le dépôt. Le roi ne fut pas très satisfait de cette résolution, et parut vouloir s'y opposer ; mais il ne l'osa pas, ce qui fut peut-être dû au bon ordre dans lequel il vit mes soldats et mon artillerie. J'arrivai enfin au magasin, et, voyant que je ne pouvais prendre les bois à bord à cause de l'encombrement de la frégate, j'y fis mettre le feu. Cette opération étant la dernière de celles dont je me croyais chargé par mes instructions, je retournai le jour suivant à bord, et le 3 Mai je mis à la voile pour regagner le port de Mozambique avec les deux prises et la corvette Anglaise que j'avais forcée à quitter le fleuve du Saint-Esprit, n'y laissant que l'autre corvette qui s'y trouvait avec pavillon et passe-port Portugais ; et j'arrivai à Mozambique avec ces navires le 15^e du mois sus-mentionné. Comme la corvette Anglaise était totalement abandonnée attendu que le seul officier qui lui restait était mort pendant le voyage, je la laissai en dépôt au Gouverneur de cette capitale pour qu'il en fit la remise ainsi que du chargement à ceux qui se présenteraient munis d'une procuration des armateurs à cet effet : ce dont le Gouverneur se chargea, en faisant procéder à toutes les mesures nécessaires pour la conservation en dépôt du navire. Je sortis le 19 Août du port de Mozambique avec les *pallas*, après y avoir fait les quelques réparations dont elles avaient besoin, et nous nous dirigeâmes vers cette capitale, où je suis arrivé aujourd'hui 20 Septembre, sans qu'il se soit produit pendant cette dernière traversée aucun incident qui mérite d'être rapporté à votre Excellence.

Je ne dois pas finir ce compte-rendu sans appeler l'attention de votre Excellence sur les officiers qui ont été mes compagnons inséparables et qui ont partagé mes travaux et mon désir de voir cette expédition terminée à la satisfaction de votre Excellence.

Les Capitaines-Lieutenants François Xavier Lobo da Gama e Almeida et Candido Joseph Mourão Garcez Palha, se sont conduits comme on devait l'attendre de leur honneur et de leur application à l'étude de leur profession dans laquelle ils ont fait des progrès notoires ; ce sont eux qui ont mis le plus d'empressement à repousser les objections qui s'opposaient à Mozambique à la continuation du voyage jusqu'à la Baie de Lourenço Marques, s'offrant à plusieurs reprises à conduire la frégate jusqu'à cette baie à l'aide de la sonde, vu le manque de pilote et de carte correcte de la même baie. Le premier a failli se noyer en allant par mon ordre chercher un pilote aux îles de Bazaruto ; le second s'est offert pour, au risque de sa vie, aller avec le canot au port d'Inhambane, d'où il a ramené un pilote et un patron, ainsi que je l'ai dit à votre Excellence. Ces deux officiers ont été nommés par moi commandants des *pallas* que j'ai capturées dans la dite baie, service qu'ils ont fait avec exactitude et dévouement pendant les voyages entre ce port et celui de Mozambique, ce qui a été d'un bon exemple pour les autres officiers.

Le Capitaine d'Infanterie Louis Lopes Quaresma, dont l'instruction, le mérite et l'intelligence sont déjà connus de votre Excellence, a montré, pendant toute la durée de cette expédition, la même conduite que les officiers sus-mentionnés. En entendant énumérer les difficultés du voyage, il m'a souvent rassuré, disant que nous parviendrions à la Baie de Lourenço Marques, soit par le canal, soit en passant en dehors. C'est surtout à ces trois officiers que je suis redevable du bon résultat du voyage de Mozambique à la dite baie.

Le Lieutenant d'Infanterie Euzebio Xavier s'est parfaitement conduit, il a montré une abnégation et une intelligence dont il a constamment donné des preuves pendant tout le voyage, apportant toujours les plus grands soins à l'exécution de tout ce dont je le chargeais concernant le service royal. Le Sous-Lieutenant Ferdinand Zuzarte, qui, dans son zèle pour le service de la Reine, a voulu s'embarquer quoique malade, est toujours resté souffrant, et, à Mozambique, on a même désespéré de sa vie.

Le Capitaine Jean Martins et le Lieutenant François de Mesquita Mascarenhas, ainsi que le Sous-Lieutenant Louis de Araujo ont donné pendant tout le voyage les preuves les plus évidentes de leur activité, de leur intelligence et de leur zèle pour le service du Roi.

Il n'est pas besoin de faire l'éloge du Capitaine d'Artillerie Custodio Cesar de Faria ; votre Excellence le connaît pour un officier distingué et plein de mérite, ainsi qu'il l'a toujours montré pendant toute la durée de l'expédition. Les Lieutenants du même corps, Jean Baptiste Dias et Joseph Coelho do Amaral, sont aussi de bons officiers, comme ils l'ont assez prouvé par leur activité, leur intelligence et leur abnégation.

Tous les sous-officiers se sont fort distingués, ainsi que les soldats d'infanterie et d'artillerie. Ni l'excès du travail, ni les maladies continuelles qu'ils ont endurées ne les ont découragés ; ils étaient toujours prêts à travailler pour le service de Sa Majesté, surtout ceux de la légion, malgré le froid et

es souffrances auxquels ils n'étaient pas accoutumés et qu'ils ont endurés courageusement pendant ce long voyage.

J'espère avoir mérité la confiance que votre Excellence m'a témoignée en me nommant à cette commission, le but de tous mes efforts étant toujours le bien du service de Sa Majesté, service auquel je continuerai de consacrer tous mes forces et toute ma volonté.

Dieu garde, &c.

(Signé) JOACHIM VINCENT GODINHO DE MIRA,
Lieutenant-Colonel de la Légion.

A bord de la frégate "Sainte-Anne," ce 20 Septembre, 1781.

No. 2.—Journal du Voyage du Lieutenant-Colonel Joachim Vincent Godinho de Mira.

Ce 31 Mars, 1781, la frégate "Sant' Anna et S. Joaquim," a mouillé dans le fleuve du Saint-Esprit de la Baie de Lourenço Marques, vers quatre heures du soir. Aussitôt après le Lieutenant-Colonel est descendu dans le canot avec le Capitaine-Lieutenant François Xavier Lobo da Gama, le Lieutenant Candido Joseph Mourão Garcez Palha, et les deux Lieutenants de la légion (le Capitaine Louis Lopes Quaresma, ayant été nommé, ainsi que le Lieutenant Euzebio Xavier da Fonseca Tovar avec ses sous-officiers, un tambour et trente soldats pour occuper le navire Impérial) et ils se sont rendus à la *palla*, qui portait pavillon Impérial, puis l'ayant abordée le Capitaine-Lieutenant François Xavier Lobo da Gama y est entré sans difficulté; et le Lieutenant-Colonel avec les autres officiers et la troupe se sont dirigés vers la terre, où il y avait une petite batterie, où il a pénétré sans éprouver de résistance. Nous avons pris l'artillerie, qui consistait en treize canons, dont dix montés sur leurs affûts et trois démontés. On a fait amener le pavillon Impérial, et le Lieutenant-Colonel y est resté pendant la nuit avec sa troupe. Le lendemain, 1er Avril, au lever du soleil, une salve a été tirée par les canons de la batterie, et on a hissé en même temps le pavillon de Sa Majesté Très-Fidèle. La frégate a répondu à cette salve par un nombre égal de coups de canon, et aussitôt après on a donné le signal de raser la batterie, ce que les soldats exécutèrent en quelques moments. L'artillerie fut transportée à bord de la frégate, et le travail terminé en présence d'un grand nombre de Cafres, puis le Lieutenant-Colonel retourna avec ses hommes à bord de la frégate. Aussitôt après, le Lieutenant-Colonel a ordonné aux Lieutenants de Marine Candido Joseph Mourão Garcez Palha et Christophe da Costa de Athaide, d'aller à bord des navires qui se trouvaient dans le port, de prendre connaissance de leurs chargements, de leurs passe-ports et d'autres papiers, et dans le cas où ils y trouveraient des objets appartenant au commerce de Bolts, d'en rendre compte, puis de faire du tout un rapport détaillé. Ce rapport est le suivant:—

La corvette "Tathe Isay," jauge 225 *candins*. Son capitaine se nomme Etienne Pinto. Elle est Anglaise, porte pavillon Portugais et se trouve pourvue d'un passe-port du Gouverneur de Damão, Joseph de Oliveira Leitão. Elle a pour sa défense quatre pièces d'artillerie et sept fusils; l'équipage est de trente hommes; son chargement consiste en draps de différentes qualités qu'on a coutume de négocier dans ce port, le tout appartenant à Galal Chand et Vazechad, marchands de Goga, et Banians de nation. Elle est sortie du port de Surrate le 20 Décembre, 1780, et n'est pas ici depuis longtemps. On a demandé au Capitaine s'il avait à bord quelques habillements appartenant au Capitaine Bolts ou à ses associés, et il a répondu qu'il n'en avait pas. Le chargement qu'il a pris dans ce port pour son commerce est composé de dix *candins* d'ivoire, dix *maines* de dents d'hippopotame et trentes cornes d'abade. Le capitaine dit qu'il a deux petits bateaux faisant le commerce sur les fleuves Mapouto et Mamalungo. Tout est conforme, excepté en ce qui concerne le jaugeage, qui est fixé sur le passe-port à 225 *candins*, tandis que le navire peut en porter 400.

La corvette "Isipai Catra," du Capitaine Robert Nipar, que les Cafres ont tué il y a quelques jours, et auquel son premier pilote Thomas George a succédé, est sortie de Bombay le 16 Novembre, 1780, avec pavillon et passe-port Anglais. Son chargement consiste en *muwozo*, verroterie et autres articles dont on fait le commerce dans ce port, où il a pris dix *candins* d'ivoire, vingt cornes de rhinocéros femelle, et un nombre égal de dents d'hippopotame. Elle a six pièces d'artillerie et quelques fusils; son équipage est de cinquante hommes. Rien autre chose n'a été trouvé à bord de ces navires où je suis allé personnellement faire cet inventaire, que je signe avec les deux lieutenants de marine qui étaient présents.

(Signé) ANTOINE JOACHIM PINTO COLLARES, Greffier.

Le 1 Avril, vers quatre heures du soir, le Roi Mafumo est venu à bord de la frégate avec son père et les personnes de sa suite, de leur plein gré et sans y avoir été appelés. Après avoir reçu les compliments du Capitaine du navire et du Lieutenant-Colonel, celui-ci leur a dit qu'il leur fallait respecter le pavillon de Sa Majesté Très-Fidèle, le seul qu'ils devaient accepter et arborer sur ces territoires, qui appartiennent aux domaines du Portugal, et qu'ils ne devaient pas permettre qu'une autre nation y fondât des établissements, ou y fit le commerce, attendu que ce droit est réservé aux seuls Portugais. Ils ont répondu que tout cela était vrai, et que nous pouvions débarquer sur les terres de Matolla, parce que nous étions des amis et des frères. Tout cela s'est passé en présence de divers officiers de la dite frégate, dans la cabine du commandant, où je me trouvais par ordre du même Lieutenant-Colonel. En foi de quoi, j'ai écrit ce procès-verbal que j'ai signé.

(Signé) ANTOINE JOACHIM PINTO COLLARES, Greffier.

Le 2 j'ai envoyé des gens avec les présents d'usage, pour dire au Roi Capella et au Roi Matolla, que je voulais leur parler, et que j'attendais qu'ils désignassent le jour où ils voudraient venir à bord de la frégate de Sa Majesté Très-Fidèle, afin de les envoyer chercher par le canot. La personne que j'avais envoyée chez le Roi Matolla est revenue le 3, en disant que le dit Roi Matolla était en route. Le 4, de très-bonne heure, il parut sur le rivage, et, ayant été aperçu de la frégate, on lui envoya le canot. Il venait avec trois de ses femmes et un grand nombre de Cafres. Ils arrivèrent à bord, où le Roi fut reçu et conduit à la cabine du commandant avec une partie de son cortège, et après plusieurs compliments et démonstrations d'amitié, il dit qu'il désirait traiter avec les Portugais qui avaient été les premiers à conquérir ces territoires, mais que les mêmes Portugais les avaient abandonnés, n'y allant point faire le commerce depuis quelque temps, ni leur porter les articles dont lui et son peuple avaient besoin, et que cet oubli où nous les avions laissés était la cause de leurs rapports avec les impériaux ; mais que si nous revenions aux anciennes relations d'amitié, il désirait traiter inviolablement avec les Portugais, car il était le frère de Sa Majesté, à la santé de laquelle il buvait avec tout le respect et toute la vénération. A l'occasion de ce toast la frégate a tiré une salve de vingt-et-un coups de canon, ce qui plut au Roi et à sa suite. Nous eûmes ensuite plusieurs conférences pendant lesquelles le Roi prouva qu'il n'était pas tout-à-fait sauvage. On l'assura qu'à l'avenir il viendrait plusieurs navires chargés de marchandises et d'habillements pour son usage, et on lui recommanda de mettre tous ses soins à faire respecter le pavillon Portugais dans cette contrée et à ne pas permettre qu'un autre pavillon y fut arboré. Il répondit qu'il agirait ainsi que cela lui était recommandé, et ajouta qu'il n'aimait que les Portugais, qui étaient ses frères et ses premiers parents. Ils commencèrent alors à manger et à boire à l'excès, et après s'être bien repus, ils se montrèrent peu satisfaits des draps qu'on leur donna pour *saguates*, vu leur petit nombre et leur mauvaise qualité ; le Roi ajouta même que ce *saguata* n'était pas digne de lui, et ne semblait pas un présent fait par des hommes tels que les Portugais ; qu'il attendait un présent qu'il pût montrer à toute sa nation, sans quoi il ne pourrait dire qu'il reverait d'une frégate de guerre Portugaise. Le Lieutenant-Colonel répondit que les frégates de guerre ne donnaient pas de *saguates* par devoir, que ce qu'il lui offrait n'était qu'un gage d'amitié et de cortoisie, et qu'il ne devait pas attendre des Portugais des présents semblables à ceux qu'il recevait des marchands qui allaient dans la Baie pour y faire le commerce ; qu'il devait se contenter de ce qui lui était donné et recevoir tout avec plaisir et satisfaction. Le Roi l'écouta avec attention et répondit qu'il voulait que le Lieutenant-Colonel allât le visiter chez lui, et lui porter un meilleur *saguata*. Le Lieutenant-Colonel refusa ; le Roi accepta alors les étoffes et les partagea avec ses gens, après quoi il demanda des verres, des conteneurs, des fourchettes et tout ce qu'il voyait. Enfin, le Lieutenant-Colonel et le commandant de la frégate lui donnèrent quelques habillements, et le Roi assez satisfait prit congé en promettant d'envoyer tous les vivres nécessaires à la frégate, assurant qu'il était prêt à envoyer de ses territoires tout ce qu'il faudrait, et ajoutant qu'il espérait qu'on ne ferait aucune violence à sa nation. Le dit Roi envoya trois vaches en cadeau, et, à sa sortie de la frégate, il fut salué de cinq coups de *bombarda*, ce dont il fut très content. Tout ceci s'est passé en présence des officiers qui étaient à bord ; en foi de quoi j'ai dressé le présent procès-verbal que j'ai signé.

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(Signé) ANTOINE JOACHIM PINTO COLLARES, Greffier.

Le 5 Avril, à neuf heures du matin, un envoyé du Roi Capella vint à bord de la frégate nous annoncer que le Roi était déjà en route, pour avoir le plaisir de nous parler et qu'il espérait que nous irions à sa rencontre à l'endroit où l'on faisait l'approvisionnement d'eau, parce qu'il ne pouvait pas venir à bord. Le Lieutenant-Colonel lui demanda pourquoi le Roi ne voulait pas venir à bord de la frégate où le Roi Matolla était déjà venu, selon la coutume où étaient les règles d'aller rendre visite aux navires qui arrivaient dans ce port. L'envoyé du Roi se borna à répéter que le Roi ne viendrait pas, et le Lieutenant-Colonel lui répliqua qu'il pouvait agir comme il l'entendrait, pourvu qu'il ordonnât qu'on vint nous vendre tout ce dont la frégate aurait besoin et qu'il nous permit de prendre notre provision d'eau et tout ce qui serait nécessaire à la frégate de Sa Majesté Très-Fidèle. L'envoyé du Roi s'en alla sur cette réponse, et le Lieutenant-Colonel descendit à terre, où se trouvaient la troupe de la légion et le capitaine de vaisseau. Des envoyés arrivèrent alors, nous disant que le Roi était déjà tout près, qu'il voulait nous parler en cet endroit même, et qu'il était escorté de 3,000 Cafres, au moins. Le Lieutenant-Colonel envoya dire au Roi qu'il pouvait venir, et qu'il l'attendait où il était quoique le lieu choisi pour cette entrevue ne fût pas du tout convenable. Les envoyés se retirèrent, et le Lieutenant-Colonel fit débarquer les pièces de campagne et quelques soldats d'infanterie. Ayant mis tout en ordre, il attendit le Roi qui ne tarda pas à arriver à l'endroit où la troupe était rangée avec ses officiers, le capitaine de vaisseau et quelques officiers de marine. Ceux-ci firent tous quelques pas en avant pour recevoir le Roi et le conduire à une petite tente, où, après plusieurs compliments, le Lieutenant-Colonel lui démontra qu'il n'avait pas bien agi en laissant fonder des établissements dans ces lieux, et "qu'il ne pouvait ni ne devait y admettre que les Portugais, auxquels il était seul permis de faire le commerce dans ces contrées ; que Sa Majesté Très-Fidèle ordonnait de lui faire savoir que ces établissements avaient été fondés contre son bon plaisir, et qu'elle lui saurait mauvais gré chaque fois qu'il souffrirait sur ces territoires tout drapeau autre que le drapeau Portugais. Le Roi répondit qu'il ne voulait avoir d'autres amis que les Portugais," et que s'ils avaient continué à apporter de grands présents et des habillements pour sa nation, ils n'auraient pas reçu des étrangers et n'aurait livré ses provisions d'ivoire qu'aux Portugais, qu'il traitait comme frères. Après ce discours, le Lieutenant-Colonel lui assura que plusieurs navires viendraient dans ces parages lui apporter les articles nécessaires, et lui recommanda d'avoir pour le drapeau Portugais le respect, l'amour et la vénération qui lui étaient dûs, lui enjoignant de se garder de l'insulter afin de ne pas l'obliger à revenir avec la même frégate pour le punir. "Le Roi protesta de son amitié et de son respect pour le drapeau Portugais," après quoi on lui donna abondamment à boire et à manger ainsi qu'un *saguata* dont il fut satisfait. Il prit

congé de nous, et, au moment de son départ, il fut salué de neuf coups de canon. Les soldats firent quelques manœuvres devant le Roi, ce qui lui fit grand plaisir et fit pousser de grands cris de joie à ses gens. Tout ceci s'est passé en présence du corps des officiers ; en foi de quoi j'ai dressé ce procès-verbal que je signe.

(Signé) ANTOINE JOACHIM PINTO COLLARES, *Greffier*.

Le 6, le Lieutenant Jean Baptiste Dias partit pour l'Unhaca avec un caporal et douze soldats, pour incendier et raser la maison que les Autrichiens y avaient établie, et pour faire connaître au Roi de l'Unhaca le tort qu'il avait eu d'y souffrir cet établissement, et l'avertir de ne plus commettre de semblables fautes sous peine d'encourir le déplaisir de Sa Majesté Très-Fidèle. Le Lieutenant arriva à l'Unhaca, et, aussitôt débarqué, il s'achemina vers la dite maison où il fut suivi par plusieurs Cafres. En y arrivant, il parla à un fils du Roi auquel il communiqua l'ordre dont il était chargé. Celui-ci lui répondit qu'il ne devait pas exécuter cet ordre avant l'arrivée du Roi son père. Ce dernier parut bientôt, accompagné de plus de 600 Cafres, ayant tous un air insolent, comme s'ils étaient dans l'intention de s'opposer à la destruction de la maison. Le Lieutenant lui communiqua le but de son voyage et, voyant l'air arrogant affecté par le Roi, il réfléchit sérieusement au peu d'avantage qu'il retirerait d'une lutte, et prenant congé, il se rembarqua et revint à bord de la frégate rendre compte de ce qui s'était passé. En foi de quoi, j'ai dressé ce procès-verbal, que je signe.

(Signé) ANTOINE JOACHIM PINTO COLLARES, *Greffier*.

Le Lieutenant-Colonel de la Légion des Volontaires Royaux de Goa, Joachim Vincent Godinho de Mira, m'ayant demandé de faire une déclaration en vertu de laquelle je m'engagerais à ne pas venir négocier dans cette baie de Lourenço Marques, sans une permission expresse de leurs Excellences les généraux de Goa et de Mozambique, je fais cette déclaration, donnant ma parole d'honneur de m'y conformer et me soumettant à toutes les peines que doivent encourir ceux qui enfreignent les Traités d'alliance existant entre les Couronnes de Sa Majesté Très-Fidèle et de Sa Majesté Britannique, et je le fais avec une connaissance pleine et entière (pour l'avoir entendu dire) du droit que la même Couronne de Portugal a sur la côte d'Afrique, depuis le Cap Delgado jusqu'à la dite baie ; pour assurer le fidèle accomplissement de ma parole, je signe en présence du Lieutenant de Marine Candido Joseph Mourão Garcez Palha et du Capitaine Etienne Pinto, comme témoins de l'engagement de ma parole.

(Signé) THOMAS GEORGE.

Moi, greffier de la frégate "Sant'Anna et S. Joaquim," je l'ai écrit et signé.

Fait à bord de la corvette "Ispay Senou," ce 23 Avril, 1781.

(Signé) ANTOINE JOACHIM PINTO COLLARES, *Greffier*.

Le 21 Avril, 1781, tous les soldats qui étaient à terre revinrent à bord de la frégate, qui sortit le 23 du même mois du fleuve du Saint Esprit et alla mouiller près de l'île qui se trouve à peu de distance de l'Unhaca. Le 27, à deux heures du matin, commença la descente dans l'Unhaca sans que les premières troupes qui gagnèrent la terre fussent aperçues ; mais la grande distance qui séparait la frégate de l'île et le petit nombre de nos bateaux de transport ne permirent pas de mettre à terre tous les hommes désignés pour ce débarquement. Les soldats de la légion avec leurs officiers, le Lieutenant d'infanterie Euzebio Xavier da Fonseca Tovar, avec 12 de ses soldats, et le Lieutenant d'artillerie Jean Baptiste avec 24 canoniers et 2 pièces de campagne furent les seuls qui purent gagner l'île. Le reste était déjà près de terre ; mais au moment où quelques soldats s'apprêtaient déjà à débarquer, on leur ordonna de suspendre leur débarquement, car on venait d'apercevoir une navire qui entrerait dans la baie et dont on ne pouvait distinguer le pavillon à cause de la distance. Le Lieutenant-Colonel ordonna au Lieutenant de marine Candido Joseph Mourão Garcez Palha de retourner aussitôt à bord de la frégate avec les hommes qui étaient encore dans les bateaux, et d'annoncer au capitaine de vaisseau qu'un grand navire entrerait dans la baie ; que si ce navire n'était pas Portugais, il devait mouiller près de la frégate, et qu'on ne devait pas le laisser remonter la baie pour ne pas nous donner plus de peine, parce que si le navire était impérial nous devions le capturer conformément aux ordres reçus. A ce moment nous étions déjà entourés de Cafres, quelques-uns parlaient Portugais et demandaient si on voulait parler à leur Roi et qu'il fallait le faire appeler ; mais on ne leur répondait pas. A chaque instant le nombre des nègres augmentait ; tous étaient bien armés ; quelques-uns portaient des poules et d'autres produits du pays. Peu après le Roi arriva avec une nombreuse suite. Le Lieutenant-Colonel le salua, le Roi lui rendit son salut d'un air peu satisfait et demanda pourquoi il y avait tant de monde qui semblait vouloir lui faire du mal quand ils étaient tous nos frères. Le Lieutenant-Colonel lui assura qu'il ne lui serait fait aucun mal, puisqu'il était un ami. On lui donna alors à boire et à manger, et après plusieurs demandes et réponses, le Roi demanda au Lieutenant-Colonel de renvoyer sa troupe, en lui disant qu'il suffirait de garder dix ou douze soldats. Le Lieutenant-Colonel lui répliqua qu'il ne pouvait rester avec aussi peu de monde, et que le nombre habituel de ceux de sa suite était beaucoup plus grand. Le Roi ne fut pas satisfait de cette réponse et parut vouloir s'opposer à notre marche vers la maison des impériaux, disant qu'il ne convenait pas que nous y allussions, et, afin de nous détourner de notre dessein, il offrit de faire construire une grande baraque dans quelque village plus voisin. Le Lieutenant-Colonel lui dit qu'il ne voulait pas lui donner cette peine, et que ce n'était que là qu'il se logerait, l'endroit étant très commode. A cette réponse les Cafres se regardèrent et s'entretenirent longtemps entre eux ; mais comme ils voyaient que nous avions pris nos précautions ils n'osèrent rien tenter. On attendait seulement que les soldats eussent fini de manger, et aussitôt après le Lieutenant-Colonel fit marcher par le flanc droit vers le lieu où était la maison. Le roi et tous ceux

qui l'accompagnaient s'agitaient comme s'ils eussent voulu embarrasser l'opération, mais ils n'osèrent pas le faire. La marche au milieu des Cafres fut donc continuée sans la moindre résistance. Nous entrâmes dans la maison et les soldats restèrent sous les armes. Le Roi arriva, et parla au Lieutenant-Colonel d'un air plus agréable, il le pria de s'asseoir et de lui faire donner à boire; quand cela fut fait il fit nombre de questions fort importunes, après quoi il se retira promettant de revenir le lendemain. Aussitôt, en présence des Cafres, on incendia la grande quantité de bois qui se trouvait dans le magasin, et pendant la matinée du 28 on acheva de tout détruire. Nous nous repliâmes alors sur le rivage, où nous trouvâmes de forts groupes de Cafres; mais ils se retirèrent sans résistance, nous faisant même de grands saluts et disant qu'ils iraient à bord; toutefois ils ne reparurent plus. Nous arrivâmes à la frégate où étaient déjà les deux pilotes de la *palla* Impériale, et deux individus, dont l'un était celui qui venait prendre le Gouvernement de l'Unhaca, et l'autre celui qui en avait été le Gouverneur et qui venait remettre sa charge. Ces deux derniers et le capitaine du dit navire restèrent à bord de la frégate, et les autres retournèrent à la *palla*, qui reçut pour commandant le Lieutenant de marine Candido Joseph Mourão Garcez Palha, auquel on donna l'ordre de fermer les écoutilles et de bien garder tout ce qui était à bord. Il y avait alors un grand manque d'eau et pour en avoir le plus promptement possible, deux officiers et quelques soldats allèrent ouvrir les puits, ce qu'ils firent avec tant de célérité que deux jours après la frégate et les deux *pallas* avaient renouvelé leur provision d'eau. Le 3 Mai nous mîmes à la voile, et nous sortîmes tous de la baie avec bon vent. Moi, greffier, qui ai accompagné le dit Lieutenant-Colonel pendant toute cette expédition, et qui ai assisté à tout ce qui s'est passé, j'ai dressé ce procès-verbal, dont je garantis la véracité, en foi de quoi je signe.

(Signé) ANTOINE JOACHIM PINTO COLLARES, *Greffier*.

Le 18 Août, la frégate et les deux *pallas* mirent à la voile et vinrent mouiller le même jour près de la forteresse. Le 19 la frégate et les *pallas* levèrent l'ancre et sortirent avec un bon vent; les *pallas* prirent une autre direction, de sorte qu'à la tombée du jour on ne les apercevait plus.

Tout ce qui est rapporté du livre depuis le 1^{er} folio jusqu'au 22^e, s'est passé comme il est dit; et moi, greffier soussigné de la frégate "Sant'Anna et S. Joaquim," j'ai tout écrit par ordre du Lieutenant-Colonel de la Légion des Volontaires Royaux, Joachim Vincent Godinho de Mira, commandant de l'expédition, et j'en donne foi en vue de la terre de Goa, après qu'ont été faits les signaux d'usage, ce Jeudi 20 Septembre, 1781, à trois heures du soir.

(Signé) ANTOINE JOACHIM PINTO COLLARES, *Greffier*.
FELICIANO RAMOS NOBRE MOURAO.

(No. 28.)

Rapport de Macpherson sur la Destruction de l'Etablissement Autrichien dans la Baie de Lourenço Marques.

(Traduction.)

David Macpherson, "The History of the European Commerce with the India." London, 1812, p. 316.

Mais l'ardeur et les espérances réveillées par le bruit de ces transactions furent un peu diminuées par la nouvelle qu'ils reçurent que leur factorerie à *Delagoa* avait été détruite par les Portugais, qui réclament la souveraineté et le droit de commerce exclusif sur la côte orientale d'Afrique.

(No. 29.)

(Copie textuelle.)

Dépêche du Prince de Kaunitz au Chevalier de Lebzelter, Ministre d'Autriche à Lisbonne, sur la Destruction de l'Etablissement Autrichien de Lourenço Marques, 23 Février, 1782.

Monsieur,

Vienne, 23 Février, 1782.

NOUS avons appris avec bien de la surprise, par votre dépêche du 10 Janvier, la nouvelle qu'une frégate Portugaise envoyée avec des troupes à la *Baie de Lagoa* par le Viceroy Portugais des Indes, s'y serait emparée du *petit* établissement formé dès 1776 en cette baie par la Société des Négociants Autrichiens qui trafiquent aux Indes, sous le nom de Bolts & Compagnie, y auraient pris deux gros vaisseaux appartenant à cette société, et enlevé tous les employés et marins pour les transporter aux Indes comme prisonniers.

Comme toutefois une nouvelle aussi étrange mérite confirmation pour qu'on puisse y ajouter pleine foi, l'Empereur est résolu d'en attendre des informations plus exactes avant de porter à la Cour de Lisbonne les justes plaintes qu'un fait de cette nature exigerait; quoiqu'il en soit, Sa Majesté ne pouvant se persuader que la chose ait eu lieu en vertu d'ordres exprès de Sa Majesté Très-Fidèle désirant en même temps d'éviter toute explication fâcheuse avec une cour dont la bonne harmonie avec la nôtre a si constamment subsisté dans tous les temps, que l'histoire n'offre pas d'exemple de son interruption, j'ai ordre de vous charger, Monsieur, de saisir la première occasion qui se présentera pour vous ouvrir confidentiellement sur cette nouvelle envers le Ministère Portugais et pour lui présenter préalablement les réflexions qui s'offrent naturellement sur cet objet, dans la supposition qu'il y eut quelque chose de vrai dans ce qu'on vous a appris.

La Société de Bolts est avouée et octroyée par la Cour.

L'établissement qu'on dit enlevé a été formé par elle dans une contrée abandonnée de toute nation Européenne et sur laquelle il n'existait (à ce qu'il paraît) aucun vestige de domination Portugaise.

L'acquisition de terres qu'elle y a faite a été consommée du gré des princes naturels du pays.

Cinq ans se sont écoulés depuis cette acquisition jusqu'aujourd'hui sans que la moindre plainte ait été faite sur ce fait notoire de la part de la Cour de Lisbonne.

Enfin, si ce qu'on vous a marqué se trouve avéré, l'enlèvement violent d'un établissement si mince et si peu fait pour donner de la jalousie à qui que se soit, a été exécuté avec un éclat et des procédés innomés entre nations amies. Des sujets avoués de Sa Majesté Impériale ont été traités comme des pirates, et des hostilités commises comme si les deux Cours étaient en guerre ouverte.

L'Empereur ne prend aucun intérêt au commerce entrepris aux Indes par quelques-uns de ses sujets que celui de la protection qu'il est obligé de leur accorder. "Il ne prétend non plus décider que l'établissement formé par eux à la Baie de Lagoa soit à l'abri de toute objection de la part de la cour de Portugal; il aurait au contraire été le premier à en ordonner l'évacuation en cas qu'on en eût fait de justes réclamations." Mais ce qui serait infiniment sensible à Sa Majesté, et intéresserait même l'honneur de sa couronne, dans un objet en soi-même peu important, *ce serait la violence des moyens employés* en cette occurrence, et contraire aux égards dûs entre souverains, s'il fallait attribuer à la volonté positive de Sa Majesté Très-Fidèle ce que son amitié et sa magnanimité ne nous permet d'imputer qu'au zèle inconsidéré du Viceroy des Indes.

Je me flatte que le résultat de votre explication préalable avec le Ministère répondra à l'attente, et je puis dire, au désir sincère de l'Empereur, et nous dispensera de toute autre discussion que celle des motifs que leurs Majestés Portugaises pouvaient avoir de réclamer la contrée qui ferait l'objet du différend, lequel pourra sans doute, au cas qu'il existât, être très aisément composé avec l'équité et la modération qui guideront toujours les démarches de Sa Majesté Impériale envers des princes dont l'amitié n'est pas moins chère à son cœur qu'elle est fondée sur une réciprocité héréditaire dans la maison d'Autriche.

On abandonne, au reste, Monsieur, à votre prudence et sagacité la manière de laquelle vous vous acquitterez de la commission dont je viens de vous charger; et vous êtes même autorisé, si vous le jugez à propos, de communiquer le contenu de cette présente dépêche au Ministère Portugais, comme ne contenant que l'expression des vrais sentiments de Sa Majesté et de l'impression produite par la fâcheuse nouvelle que vous nous avez annoncée.

Je suis, &c.
(Signé) KAUNITZ RIETBERG.

A M. le Chevalier de Lebzelter.

ANNEXES AU No. 29.

No. 1.—*Extrait d'une Lettre de Mozambique du 1 Août, 1781.*¹

Nous partîmes de Bombay le 15 Février sur le navire "le Comte de Proli" et étant arrivés à la Baie de Lagoa après soixante-dix jours de voyage, nous y trouvâmes la frégate Portugaise "Sant'Anna e S. Joaquim," Capitaine Nicolas Delgado Figueira da Cunha Dessa, qui s'était déjà emparée du bâtiment Impérial "le Prince Ferdinand," dont le Capitaine Manwaring, le Lieutenant, et l'équipage de dix hommes avaient misérablement péri dans une affaire où ils s'étaient engagés avec les nègres. A notre arrivée nous reçûmes la visite d'un officier de la dite frégate, qui nous dit qu'elle était partie en Janvier de Goa pour la Baie de Saint-Augustin dans l'île de Madagascar, et qu'ayant été contrariée par les courants, qu'ayant beaucoup souffert à la hauteur d'Inhambane, elle avait été forcée de relâcher à la dite Baie de Lagoa pour se réparer; et qu'y ayant trouvé le dit bâtiment "le Prince Ferdinand" totalement abandonné, le commandant Portugais s'en était rendu maître dans le dessein de le conduire à Goa pour le remettre à l'agent de M. Boltz; mais que, puisque je me trouvais sur les lieux, le commandant Portugais voulait me le remettre, et me priait en conséquence de passer incessamment à son bord, pour prendre acte de cette remise, parceque la frégate devait remettre à la voile le lendemain.

Ne soupçonnant rien de ce récit, je me rendis en effet à bord de la frégate en compagnie du Capitaine Thomas Burton du navire "le Comte de Proli," et du Sieur Van Dorselaer, qui venait pour résider à Lagoa en qualité de député de la compagnie. Mais dès que nous fûmes à bord, le Lieutenant-Colonel Joachim Vincent Godinho de Mira, commandant Portugais des troupes qui étaient sur la frégate, nous déclara qu'il nous faisait prisonniers, et que sur des ordres de Sa Majesté Très-Fidèle il était venu à cette baie pour en chasser tous les étrangers qui s'y trouveraient, et arrêter tous les Impériaux pour les conduire à Mozambique et de là à Goa pour qu'ils eussent à rendre compte et raison de la liberté que M. Boltz avait prise d'établir un comptoir et d'arborer le pavillon Impérial sur le territoire de Sa Majesté.

En conséquence les Portugais s'emparèrent aussi du navire le "Comte de Proli," ainsi qu'ils avaient fait du bâtiment le "Prince Ferdinand," et les ont conduits ici avec tous les Impériaux. A cette époque il se trouvait dans la Baie de Lagoa deux bâtiments Anglais, dont l'un "The Spy" fut contraint de sortir du port, et l'autre "Faitelay" eut la faculté de rester se trouvant muni d'un passeport du Gouverneur de Goa.

¹ Archives du Ministère des Affaires Etrangères.—Légation d'Autriche, 1782.

No. 2.—*Extrait d'une autre Lettre de Mozambique du 10 Août, 1781.*

Conformément à ce que je vous marquai par ma dernière de Bombay du 26 Décembre, 1780, je me suis embarqué sur notre brigantin Impérial "le Comte de Proli," Capitaine Burthon. Nous partîmes du susdit port le 15 Février dernier pour la Baie da Lagoa, où nous arrivâmes après une navigation de soixante et dix jours. A notre entrée dans la susdite baie, nous fûmes bien surpris d'y trouver trois navires mouillés près de l'île Inhaca, située à peu près à sept lieues de distance de l'embouchure de la rivière de Lourenço Marques, dans laquelle M. le Lieutenant-Colonel Boltz s'était établi. Nous ne pouvons guère présumer que ce fussent des bâtiments expédiés de Livourne, et nous supposâmes que c'étaient des corsaires Français de l'île Maurice; qui en croisant dans le Canal de Mozambique, seraient entrés à *Lagoa*, pour y prendre des vivres, ou pour s'emparer des bâtiments Anglais qui fréquentent cette baie pour la traite de l'ivoire. Mais nous fûmes bientôt détrompés, lorsque nous fûmes à portée de distinguer les pavillons. Le plus grand de ces navires était une frégate Portugaise, qui nous tira un coup de canon pour nous obliger à mettre notre chaloupe dehors, et nous rendre à son bord. Nous ne sentîmes que trop ce que cela voulait dire, et ne pûmes qu'obéir. Cette frégate était armée de quarante canons et 500 hommes, parmi lesquels deux compagnies du Corps de l'Artillerie, quelques pièces de campagne, et tout ce qui est nécessaire pour un débarquement. Elle était partie de Goa pour cette expédition par ordre de la Cour de Lisbonne, et était arrivée un mois avant nous dans la dite Baie da Lagoa. Son premier soin avait été d'entrer dans la rivière, d'y mettre bas le pavillon Impérial, d'y arborer le Portugais, et de s'emparer de tout ce qui appartenait à notre factorerie dans cette rivière. Après quoi les Portugais étaient venus mouiller sous le vent de l'île de Inhaca, et y étaient descendus pour y arracher aussi notre pavillon.

Le Lieutenant-Colonel Portugais qui avait été chargé de cette expédition, et qui se trouvait à terre dans la dite île avec ses troupes n'eut pas plutôt su notre arrivée, qu'il se rendit à bord, et nous notifia, que cette vaste étendue de côte Orientale d'Afrique, "à compter depuis le Cap Delgado jusqu'à l'extrémité au sud de la Baie da Lagoa, appartenait à Sa Majesté Très-Fidèle;" qu'il nous retenait prisonniers au nom de ce monarque, et que nous devons être conduits à Goa, où la cour déciderait de cette affaire. Ensuite il nous apprit le désastre qui était arrivé aux gens de notre factorerie de la dite rivière peu de temps avant l'arrivée de la frégate Portugaise. En voici la substance:—

Mr. Manwaring, Anglais, qui résidait à *Lagoa* en l'absence de Mr. Pollet, ayant eu quelques démêlés avec les Cafres, était sorti avec toutes les personnes de notre service de notre brigantin "le Prince Ferdinand," qui était mouillé dans la dite rivière. A peine furent-ils descendus à terre, qu'un corps nombreux de Cafres armés de lances fondit et fit main basse sur eux, de manière qu'il n'en échappa pas un seul, et que tous périrent misérablement.

(No. 30.)

Dépêche du Ministre des Affaires Etrangères du Portugal au Ministre Portugais à Vienne, sur l'Expulsion des Autrichiens de la Baie de Lourenço Marques, 9 Avril, 1782.

(Traduction.)

Palais de Notre Dame d'Ajuda, ce 9 Avril, 1782.

Par votre lettre arrivée par le dernier courrier, j'ai reçu la communication que vous me faites concernant la nouvelle répandue à Vienne de l'expulsion des Autrichiens de la Baie de Lagoa sur la côte d'Afrique, où une compagnie de commerce avait fait faire un établissement. En même temps M. de Lebzelter est venu me trouver, et m'a lu la lettre officielle qu'il avait reçue de sa Cour, et dont je vous envoie ci-joint la copie. Ayant fait part de tout à la Reine, notre souveraine, elle m'a ordonné de vous mettre au courant de l'affaire. La nouvelle dont vous me parlez est vraie, mais dans le fond les faits se sont passés d'une manière très différente. Le Gouverneur de Goa ayant reçu la nouvelle de cet établissement sur un territoire compris dans la carte qu'il a des contrées renfermées dans les limites du gouvernement qui lui a été confié, a fait partir une frégate pour constater le fait et revendiquer en cas d'usurpation le territoire occupé; en agissant ainsi, il n'a fait qu'exécuter les ordres et les instructions générales données à tous les Vicerois et Gouverneurs de l'Inde, qui enjoignent de ne pas permettre, autant qu'il leur sera possible, que d'autres nations, quelles qu'elles soient, prennent possession ou fassent des établissements sur des terres ou côtes maritimes appartenant à la Couronne de Portugal par ancien droit de conquête, de navigation et de découverte.

En vertu de ce règlement recommandé à plusieurs reprises, le Gouverneur de Goa a ordonné l'expédition, ce dont on a eu connaissance par la communication qu'il vient de faire à ce Ministère. Mais attendu que la compagnie qui avait essayé de fonder l'établissement, avait obtenu la protection de l'Empereur, ce qu'on ne sait qu'à présent, Sa Majesté a ordonné de faire remettre aux armateurs les navires dont on a fait prise dans la dite côte, ainsi que leurs chargements, et de faire mettre en liberté tous les individus qu'on avait amenés avec eux comme prisonniers à Goa. Elle veut ainsi témoigner de la manière la plus évidente combien elle attache de prix aux relations de parenté, d'amitié et de bonne harmonie avec Sa Majesté Impériale, relations qui se sont maintenues depuis bien des siècles entre les Couronnes du Portugal et de l'Autriche. Mais Sa Majesté Très-Fidèle espère aussi que Sa Majesté Impériale fera de son côté ordonner aux directeurs de la compagnie ci-dessus nommée de ne plus causer de troubles dans ces terres sur lesquelles la Couronne du Portugal a un droit si ancien et qui n'a jamais été disputé jusqu'à présent, comme le démontre l'histoire.

Vous pouvez donc causer à cet égard avec le Ministère, en garantissant les bonnes intentions de

notre auguste Reine, et n'oubliant pas en tout cas la prudence et le zèle qu'il faut, vous le savez, déployer dans ces affaires.

Toute la famille royale se porte bien.

Dieu garde, &c.
(Signé) AYRES DE SA E MELLO.

M. le Comte d'Oeynhausen.¹

(No. 31.)

Dépêche du Ministre Portugais à Vienne au Ministre des Affaires Etrangères du Portugal sur ce qui s'était passé entre lui et le Gouvernement Autrichien à propos de la Destruction de l'Etablissement de Bolts, 11 Mai, 1782.

Excellence,

Vienne, en Autriche, ce 11 Mai, 1782.

J'ai reçu votre dépêche du 9 Avril avec la copie de la lettre officielle que M. de Lebzelter nous a remise, et dans laquelle le Ministère Impérial se plaint de la manière dont le Gouverneur de l'Inde a agi envers quelques négociants Allemands qui avaient essayé de fonder un établissement dans la Baie de Lagoa sur la côte d'Afrique.

J'ai entretenu là-dessus le Vice-Chancelier, Comte de Cobenzl, et d'après les ordres de votre Excellence je lui ai dit: Que Sa Majesté la Reine, notre souveraine, avait été informée par le Gouverneur de l'Inde, que, ayant eu connaissance que quelques négociants Allemands avaient essayé de s'établir de leur autorité privée dans la Baie de Lagoa sur la côte d'Afrique, dont le territoire appartient à la Couronne de Portugal par droit de découverte, de conquête et d'ancienne possession, il avait cru de son devoir de s'opposer à cette tentative en envoyant dans la baie une frégate dans le but de conduire à Goa ces négociants avec leurs navires et chargements.

Que Sa Majesté, ayant été informée dernièrement par M. de Lebzelter, Ministre Impérial près sa Cour, de l'intérêt que Sa Majesté Impériale témoignait à ces négociants, qui faisaient partie d'une compagnie reconnue et autorisée par elle, Sa Majesté la Reine m'avait ordonné de faire savoir à Sa Majesté Impériale, qu'elle tient à cœur de toujours faire tout ce qui pourra témoigner de son désir de maintenir l'harmonie établie entre les deux Couronnes par l'union du sang et d'une ancienne amitié; et que pour lui en donner maintenant une preuve évidente, elle avait fait expédier des ordres afin que l'on rendit la liberté à toutes les personnes prisonnières à Goa, et qu'on les remit en possession de leurs navires et chargements:

Que Sa Majesté espérait que Sa Majesté Impériale voudrait bien répondre de son côté à cette démonstration de ses sentiments inviolables envers elle, en ordonnant aux directeurs de la dite compagnie de commerce de ne plus rien tenter à l'avenir qui pût porter atteinte à la souveraineté de la Couronne de Portugal sur un territoire auquel elle a des droits aussi anciens qu'incontestables.

M. le Vice-Chancelier, Comte de Cobenzl, m'a répondu qu'il ne manquerait pas de rendre compte à l'Empereur des expressions amicales de Sa Majesté la Reine, ma Souveraine, et qu'il m'assurait d'avance que Sa Majesté Impériale en aurait un grand plaisir, ainsi que de la manière dont on avait agi envers les prisonniers rendus à la liberté à Goa, et remis en possession de leurs navires et chargements; et qu'il ne manquerait pas non plus de me communiquer tout ce que l'Empereur lui ferait savoir à cet égard. Il a ajouté, en attendant, et pour mon information particulière, qu'il était vrai qu'un nommé Bolts avait formé la compagnie de commerce dont il s'agit, sous la protection et avec le consentement de l'Empereur; mais que celui-ci ne lui avait nullement accordé la permission de faire le commerce ou d'établir des factoreries sur des territoires appartenant aux Puissances étrangères; que Bolts se trouvait maintenant à Livourne où la cour lui avait envoyé l'ordre de venir à Vienne donner personnellement les explications dont elle a besoin sur ce sujet, et qu'il devait arriver un de ces jours; qu'il avait cependant écrit au Ministère Impérial en s'engageant à prouver par des contrats authentiques faits avec les naturels du pays, que son établissement dans la Baie de Lagoa était situé sur un terrain abandonné par les Portugais depuis longtemps, et sur lequel les indigènes ne reconnaissaient pas la domination de la Couronne de Portugal.

J'ai répondu à M. le Comte de Cobenzl, que le territoire dont il s'agit est incontestablement compris dans les domaines de la Couronne de Portugal sur la côte d'Afrique; et que si, pour des raisons d'intérêt, elle n'avait pas jusqu'à présent jugé convenable d'y former un établissement, on ne pouvait en conclure qu'elle eût renoncé pour cela à son droit et à sa souveraineté, et reconnu aux autres nations le droit de s'y établir sans son consentement.

M. le Vice-Chancelier a répliqué: D'après ces principes aucune nation autre que la nation Portugaise ne pourrait donc établir un comptoir de commerce sur la côte d'Afrique entre le Cap de Bonne-Espérance et celui de Babelmandel? Je lui ai répondu qu'il en était ainsi pour tous les territoires appartenant à la Couronne de Portugal par droit de découverte, de conquête et de navigation.

Le Comte de Cobenzl m'a répété que Bolts n'aurait pas assurément l'appui de l'Empereur s'il ne pouvait justifier sa conduite; car il n'avait pas d'autorisation pour agir de manière à porter préjudice aux droits des autres Souverains, et bien moins à ceux d'une Souveraine à laquelle Sa Majesté l'Empereur est allié par les liens les plus étroits de sang et d'amitié; que Bolts voulait faire croire que l'établissement de la Baie de Lagoa n'avait pas assez d'importance pour exciter la jalousie des autres

¹ Archives du Ministère des Affaires Etrangères.

nations; et qu'il ne servait que de point de relâche aux embarcations faisant voile vers l'Inde sous pavillon Impérial, et qui devaient y faire leurs provisions d'eau.

J'ai déjà fait comprendre à votre Excellence, dans quelques autres dépêches, que l'Empereur verrait avec plaisir se développer le commerce de ses sujets avec l'Inde; et il me semble, d'après la conférence que j'ai eue avec le Comte de Cobenzl, que la Cour Impériale serait heureuse si sa compagnie de commerce pouvait avoir sur la côte d'Afrique un établissement avec le consentement de la Reine, notre Souveraine.

Dieu donne, &c.
(Signé) COMTE DE OEYNHAUSEN.

A son Excellence Ayres de Sá e Mello.

(No. 32.)

Déclaration faite entre le Gouverneur de Lourenço Marques et le Régule de Mapouto, Macazana-Maxilleme à Mapouto, 8 Octobre, 1823.

(Traduction.)

Le Gouverneur s'oblige à le protéger de tout son pouvoir, attendu que ce régule reconnaît que les Portugais sont les seuls maîtres de ces terres et les premiers que les ont découvertes; les anciennes relations restant ainsi en vigueur, sans qu'aucune affaire ou Convention avec toute autre nation soit valable, n'étant pas conclue avec le Gouvernement du Portugal.

(Signé) MIGUEL LUPE DE CARDENAS, *Gouverneur.*
MACAZANA, *Régule de Mapouto.*
MAXIMIANO JOSEPH FERNANDES, *Sous-Lieutenant du*
Détachement.
CAMANA, *Frère du Régule et Premier Secrétaire.*
MANUEL JOSE LISBOA, } *Interprètes.*
ELEUTERIO HENRIQUE, }

Remplissant l'office de greffier par ordre de ce Gouvernement de Lourenço Marques, en l'absence du greffier titulaire, E. V. S.

(Signé) VICENTE THOMAS DOS SANTOS.

Telle est la copie authentique, et telles sont toutes les signatures que je certifie véritables et que je légalise en vertu des fonctions de ma charge.

Baie de Lourenço Marques, ce 22 Octobre, 1823.

(Signé) ANTONIO PEDRO TEIXEIRA, *Greffier par intérim.*

Enregistrée au livre 3 de ce Gouvernement, au folio 11 et par ordre du Gouverneur.

Baie de Lourenço Marques, ce 28 Octobre, 1823.

(Signé) ANTONIO PEDRO TEIXEIRA, *Greffier par intérim.*

(No. 33.)

Acte de Reconnaissance de Maietta comme Régule du Tembe, 20 Octobre, 1823.

(Traduction.)

Le 20 Octobre, 1823, en ce village de Maxancha, le dit Maietta ayant été la veille à la factorerie rendre hommage, suivant la coutume, avec un grand nombre de personnes de sa cour afin d'y être investi de l'autorité et du pouvoir, et d'être reconnu par son peuple de Tembe, la vérification accoutumée s'étant faite suivant l'habitude, tous les grands qui étaient présents, après de longues prières et d'un commun accord, ont déclaré que c'est à Maietta qu'appartient le Gouvernement du Tembe.

Ayant, en conséquence, rendu hommage respectueux au Portugal, selon l'usage du pays, cet homme a été reconnu par tout le peuple, il a reçu les compliments d'usage et il est reconnu dès aujourd'hui par tout le peuple de Tembe (et par la factorerie) comme son régule et son Chef, avec le titre de Capella, s'obligeant, conformément à son devoir et aux anciens usages, à se reconnaître sujet de la factorerie, sans quoi son autorité n'aura pas de valeur. Et cet acte lui ayant été lu par tous les interprètes, autant de la factorerie que du Tembe, et interprété clairement et en la meilleure forme non-seulement à ce régule, mais encore à tous les grands, à leurs subalternes et au peuple, il a été accepté par tous, en général, selon le devoir et l'habitude, et avec un grand enthousiasme.

C'est pourquoi, ils ont signé, et de fort bon gré, avec toutes les personnes de premier rang qui se trouvaient présentes.

(Signé)

MIGUEL LUPE DE CARDENAS, *Gouverneur*.
 ANTONIO MODESTO DE SOUSA, *Capitaine*.
 MAXIMIANO JOSE FERNANDES, *Sous-Lieutenant*.
 ANTONIO PEDRO TEIXEIRA, *Lieutenant*.
 VICENTE THOMAS DOS SANTOS, *Capitaine du Navire*.
 MANUEL JOSE LISBOA, *Interprète*.
 SALVADOR LEITE PEREIRA, *Fourrier*.
 MAIETA LUCUMBLA.
 LAMBA MELAXANE, *Régule du Tembe*.
 MATIVALA XIVIAMBIRE, *Grand-Père du Nouveau Régule*.
 MODOMANE (signé par le MAXANA MADOMANE), *c'est le Frère de la Grand-Mère du Régule*.
 L'Infant dit MAXINHAVA, *Frère de la Grand-Mère*.
 SICONGO ou MULATE, IMPAMBATE, *Fils de Mulate, Frère du dernier Régule*.
 CHICATA MOMBO, *Petit-Fils du dernier Régule*.
 CHICALETA ou CHICATI MOVI, *Frère du dit dernier Régule*.
 ANCHIGILA, *Petit-Fils du dit dernier Régule*.
 MOLHEQUA, *Fils du dit Régule*.
 MAGONE, *Fils du même*.
 MAPOXE, *Petit-Fils du même*.
 BAIVANE, *Neveu du dernier Régule*.
 BEZALUNO, *Idem*.
 SAUNHANHE, *Fils du même*.
 MAUPE, *Idem*.
 MASSEQUE MAXEMBEVE, *Fils du même*.
 GOGO et MAR, *Fils du même*.
 CHONGOE, *Neveu du même*.
 NOUBILE MAXEVONDA, *Neveu du même*.
 GOANE DINANE, *Fils du dernier Régule*.
 METANE, *Premier Secrétaire de l'actuel Régule*.
 MACANHANA, *Deuxième Secrétaire*.

Je reconnais les signatures pour être celles des individus qui ont signé en ma présence, ce que je certifie sur ma parole d'honneur.

Baie de Lourenço Marques, ce 20 Octobre, 1823.

(Signé)

ANTONIO PEDRO TEIXEIRA, *Greffier par intérim*.

Extrait du livre des enregistrements No. 1, fol. 8, où l'original a été enregistré par ordre du Gouverneur, ce que j'atteste.

Baie de Lourenço Marques, ce 28 Octobre, 1823.

(Signé)

ANTONIO PEDRO TEIXEIRA, *Greffier par intérim*.

(No. 34.)

Acte de Reconnaissance de la Souveraineté Portugaise par le Régule Maieta du Tembe, 20 Octobre, 1823.

L'an 1823 de la naissance de Notre-Seigneur Jésus-Christ, ce 20 Octobre, dans ce village de Machanxa à Tembe, le présent Acte a été dressé,—Voulant savoir autant que possible la vérité relativement à de certains bruits, et même à cause de la lettre que ce Gouvernement a reçue du Capitaine Owen, de la frégate "Leven" de Sa Majesté Britannique, (afin d'en donner connaissance à qui de droit), le Gouverneur a invité tous les Anglais qui se trouvent dans cette baie, par dépêche adressée au subrécargue des deux schooners (M. Macuart), à témoigner publiquement et clairement de la vérité au moyen de questions posées au régule Maieta, intitulé Capella, et à tous les grands, parents et secrétaires, qui tous se trouvaient réunis; et ils ont déclaré ce qui suit.

On leur a demandé qui ils étaient, à qui ils appartenaient et qui ils reconnaissaient?

Capella a répondu exactement comme suit, et tous ont applaudi. Nous sommes Landins, fils du Capella notre prédécesseur, qui est né des Molungos (Portugais), ainsi que le Matola et Munhamba, qui possèdent ces territoires, et qui emploient quelques moyens pour avoir des vêtements; et s'ils portent quelques présents aux Anglais, c'est pour en recevoir des vêtements comme rétribution.

On lui a demandé en outre s'il avait signé quelque papier à quelqu'un, ou au dit Owen, faisant donation de ses terres à Sa Majesté Britannique?

Il a répondu qu'il n'avait signé aucun papier et qu'il ne pouvait pas donner ces terres, parce qu'elles appartenaient aux Molungos (Portugais); qu'il était vrai qu'il avait reçu du Capitaine Owen quelques vêtements, mais qu'ils avaient été payés par des bœufs et de l'ivoire qu'il lui avait donnés; et que s'ils pensent qu'il avait donné ces terres en échange de ce présent, ils se trompaient fort, et qu'ils ne pouvaient faire une telle chose, parce qu'eux aussi appartenaient aux Molungos.

On a demandé de nouveau au même Maieta s'il pouvait livrer les terres aux Anglais?

Il a répondu, et tous l'ont certifié, qu'il lui était impossible de faire une telle chose attendu que

depuis plusieurs années ils avaient sur leurs terres une colonne aux armes de Portugal et un drapeau, et que les Portugais avaient naguère leur comptoir dans ces terres, et qu'ils se sont toujours considérés sujets du Gouvernement Portugais, tellement que lorsqu'il allait à bord de quelque navire étranger, même à bord de la frégate "Leven," il en faisait toujours part au Gouverneur. Et enfin, le régule, aussi bien que la noblesse et le peuple, l'ont affirmé de leur propre gré et sous le serment le plus solennel, demandant un drapeau Portugais pour ces terres de Tembe et un détachement pour le garder ; parce qu'ils ne reconnaissaient dans ces terres d'autre drapeau que le Portugais.

On leur a demandé de montrer la colonne aux armes de Portugal.

Ils ont répondu qu'elle était enterrée et gardée ; mais qu'ils l'avaient chez eux en sûreté ; qu'ils ne la montraient pas aujourd'hui parce qu'il était tard ; mais qu'ils la montreraient en toute autre occasion.

(Signé)

MIGUEL LUPE DE CARDENAS, *Gouverneur.*
 ANTONIO MODESTO DE SOUSA, *Capitaine-Commandant.*
 MAXIMIANO JOSE FERNANDES, *Sous-Lieutenant.*
 VICENTE THOMAS DOS SANTOS, *Capitaine du Navire de Voyage.*
 SALVADOR LEITE PEREIRA, *Fourrier.*
 THEODORO JOSE.
 JOSE MANUEL PANTOSGA, *Caporal.*
 MUCISSETE BAXARY.
 JOAQUIM MANUEL.
 JOAO DA COSTA.
 JOAO MANUEL.
 ANTONIO JOSE BANARDAQUE.
 MANUEL JOSE LISBOA.
 ELEUTERIO HENRIQUES, *Interprète.*

Je reconnais les signatures des témoins susmentionnés du présent acte de déclaration du régule Capella, de la noblesse et du peuple de Tembe : et je déclare que M. Macuard, Anglais de nation, qui a assisté à toute la déclaration, ayant été invité à signer également comme témoin, a refusé de la faire. Ce que je certifie comme vrai.

Baie de Lourenço Marques, ce 20 Octobre, 1823.

(Signé)

ANTONIO PEDRO TEIXEIRA, *Greffier par Intérim.*

Extrait du livre d'enregistrement, No. 3, fol. 10 et 11, où l'original a été enregistré par ordre du Gouverneur ; ce que j'atteste.

Baie de Lourenço Marques, ce 28 Octobre, 1823.

(Signé)

ANTONIO PEDRO TEIXEIRA, *Greffier par Intérim.*

(No. 35.)

Dépêche de Lord Londonderry au Chargé d'Affaires de Portugal à Londres, demandant des Lettres de Recommandation en faveur du Capitaine Owen qui allait étudier la Côte d'Afrique à l'est du Cap de Bonne-Espérance, 2 Février, 1822.

(Traduction.)

Le Gouvernement de Sa Majesté ayant désigné deux petits navires de guerre pour aller sous les ordres du Capitaine Owen, explorer la côte d'Afrique à l'est du Cap de Bonne-Espérance, dans l'intérêt de la navigation et de la science en général, le soussigné, Premier Secrétaire d'Etat de Sa Majesté pour les Affaires Etrangères, a l'honneur de prier M. d'Oliveira, Chargé d'Affaires de Sa Majesté Très-Fidèle, d'avoir la bonté de pourvoir le Capitaine Owen de lettres pour les autorités Portugaises sur cette côte, leur demandant de lui donner les ravitaillements et l'assistance dont ces navires pourraient avoir besoin au cas où ils toucheraient à Mozambique, ou à tout autre établissement Portugais sur la côte d'Afrique.

Le Soussigné a l'honneur d'ajouter que les navires étant tout prêts à entreprendre le voyage, le Gouvernement de Sa Majesté désire obtenir ces lettres le plus tôt possible.

Le Soussigné, &c.

(Signé) LONDONDERRY.

M. d'Oliveira, &c.

Ministère des Affaires Etrangères, ce 2 Février, 1821.

(No. 36.)

Cession figurée de Maïeta, Régule de Tembe, au Capitaine Owen, 8 Mars, 1823.

(Traduction.)

Le Roi Mayett Kapell, Roi de tous les territoires situés entre les fleuves English et Dundas, d'un côté, et le fleuve Mapouto, de l'autre, vulgairement appelé Tembe, du nom d'un de ses ancêtres qui les premiers s'y établirent, en fait libre cession à Sa Majesté Britannique, aux conditions suivantes :

1. Le libre commerce avec toute partie des domaines Britanniques sera permis, avec les restrictions que Sa Majesté Britannique jugera convenables.

2. Une force militaire sera mise à Tembe, pour protéger ce territoire, ainsi que le peuple qui l'habite contre les tribus de l'intérieur et contre les Portugais (de la conduite desquels ils se sont plaint hautement).

3. La personne qui y représentera Sa Majesté Britannique sera investie d'une autorité illimitée pour administrer les lois et les statuts du Tembe.

4. Aucune loi ne sera promulguée pour les blancs ou les noirs, avant d'avoir été examinée en premier lieu par les chefs (Opperhoofden), et ensuite par le Grand Conseil, composé du Gouverneur Anglais, du Roi Kapell, de deux Conseillers Anglais, et de deux Conseillers de Tembe.

5. Le nombre des chefs n'excédera pas celui de un par mille carrée (lieue); la moitié sera de Chefs Anglais, et l'autre moitié de Chefs du Tembe. Les Anglais seront choisis et nommés par le Gouverneur Anglais, et les Chefs du Tembe par le Roi Kapell.

6. Aucun Gouverneur ne conservera sa place pendant plus de cinq ans. A la fin de cette époque une enquête sur sa conduite publique pourra être faite en Angleterre.

7. Il ne pourra jamais être proposé ou établi aucune loi restreignant la liberté et la sûreté personnelles, ainsi que la parfaite bonne foi; c'est-à-dire, que les personnes et leurs propriétés seront inviolables et sacrées.

8. Les terres qui pourront être nécessaires pour les édifices et les travaux publics seront cédées en forme légale deux ans après la fondation d'un établissement Britannique; jusqu'alors, le Roi Kapell désignera les terres dont le Gouverneur pourra avoir besoin pour les usages susdésignés.

9. Les Chefs (Opperhoofden) seront appelés à se réunir quatre fois par an, chaque fois pour un laps de temps de quatorze jours. Aucun d'eux ne pourra s'absenter de ces réunions sans la permission de l'autorité combinée du Gouverneur et du Roi Kapell.

10. Chaque homme exercera son autorité dans son propre ménage, sur ses femmes, ses enfants et ses domestiques, dans les limites de la loi. Les lois seront faites aussi simples que possible et chaque jeune homme sera dûment instruit des lois. Lorsqu'il aura atteint l'âge de dix-sept ans, il s'obligera solennellement à les observer fidèlement. Il est alors seul responsable envers l'Etat, à moins qu'il ne demeure dans la maison de son père.

11. Toutes les questions civiles ou criminelles seront soumises à des juges et à des jurés, trois jurés pour le civil, et sept pour le criminel.

12. Le pouvoir de faire la guerre et de conclure la paix résidera dans le Grand Conseil exclusivement. Les hommes seront exercés au service militaire et auront au moins deux heures d'exercice par semaine.

13. Tout individu jouissant de ses facultés intellectuelles pourra disposer de sa propriété comme bon lui semblera; mais aucune propriété ne pourra être léguée en testament sous quelque restriction ou stipulation. Si un homme meurt *intestat*, sa propriété sera partagée également entre tous ses enfants, par toutes ses femmes.

Cette cession a été faite, signée, et confirmée le 8 Mars, 1823, par

(Signé)

KAPELL, *Roi.*

SLENGELLY, *Chef.*

TAMGAY, *Chef.*

SHAMAGUAVA, *Chef.*

Comme Témoins:

(Signé)

WM. MUDGE, *1er Lieutenant.*

JOHN FORBES, *Botaniste.*

Et confirmée par W. F. W. Owen, Capitaine du Vaisseau de Sa Majesté "Leven," ce 19 Mars, 1823.

(No. 37.)

Lettre du Capitaine Owen au Gouverneur de Lourenço Marques lui annonçant qu'il avait arboré le Drapeau Anglais sur le Tembe, 9 Mars, 1823.

(Traduction.)

A bord du "Leven," Delagoa Bay, ce 26 Août, 1823.

J'ai l'honneur de vous informer que le Roi et le peuple du Tembe ont demandé par mon entremise la protection de Sa Majesté Britannique, le Roi mon maître, et qu'ils ont cédé librement et sans contrainte la souveraineté du dit Royaume de Tembe et ses dépendances à la dite Majesté, dont je leur ai promis la protection. Ayant accepté cette cession, en attendant que je connaisse le bon plaisir de Sa Majesté, j'ai arboré le drapeau Anglais sur la rive sud du fleuve.

C'est pourquoi je suis persuadé que ce drapeau, symbole de la liberté du Tembe, sera respecté par vous et par toutes les autorités Portugaises, conformément aux relations amicales qui existent entre nos nations.

Les Portugais occupaient dans le Tembe une portion de territoire pour lequel ils ont l'habitude de rendre hommage au moyen de présents annuels.

Leur titre à ce territoire sera reconnu pendant qu'ils en continueront le paiement dans la forme

accoutumée soit au Roi indigène du Tembe, soit au représentant de Sa Majesté Britannique dans ce royaume.

J'ai, &c.

(Signé) W. J. W. OWEN,

Capitaine du Vaisseau de Sa Majesté Britannique "Leven."

A M. Miguel Lupi de Cardenas,

Commandant de l'Etablissement Portugais à Mafoumo sur le English River.

(No. 38.)

Passe-port délivré par Joseph Nowe, Commandant de la Station du Cap aux Navires Marchands Anglais, Juin 1, 1823.¹

(Traduction.)

Par Joseph Nowe, Chevalier du Grand Ordre Militaire du Bain, Chef de Division, Commandant-en-chef de navires employés au service du Cap de Bonne Espérance et des mers adjacentes, pour Sa Majesté Britannique, &c.

Mayet Roi Kapella, Roi des terres situées entre les fleuves Anglais et Dundas, d'une part, et le fleuve Mapouto, de l'autre, vulgairement appelé Tembe, prénom de ses ancêtres.

En vertu du pouvoir, de l'autorité et du titre qui lui reviennent par la mort de son grandpère le feu Roi Kapella, la Souveraineté de toutes les dites terres de Tembe et de Mapouto ayant été cédée librement à George, le quatrième, Roi de la Grande Bretagne et de l'Irlande, &c., sous certaines conditions qu'il n'est pas nécessaire de spécifier ici ; William Fitz William Owen, Capitaine de la frégate "Leven," pour Sa Majesté Britannique, et Commandant-en-chef de l'escadre Britannique employée au balisage de la côte Orientale d'Afrique, ayant certifié qu'il avait été requis à plusieurs reprises d'accepter la cession du Royaume de Tembe, selon le désir du Roi Kapella, ce dont il avait l'intention d'informer les autorités supérieures, mais que les circonstances lui ont imposé la nécessité de se décider à l'accepter jusqu'à ce qu'il connaisse la volonté de Sa Majesté Britannique, et que la cession lui est parvenue en règle par main du régule Slengely, par ordre du Roi, le 8 Mars de l'année 1823 ; le Capitaine Owen Henri certifiant que loin d'avoir incité le Roi Tembe à cet acte, ou lui avoir offert quelque chose pour l'induire à le faire, il l'évitait continuellement quand on le sollicitait de recevoir les terres pour Sa Majesté Britannique, jusqu'à ce qu'il le fit le 8 Mars, 1823. En conséquence de la dite cession qui a été faite en ordre et en la dite forme, moi, Joseph Nowe, Chef de Division, et Commandant-en-chef des navires Britanniques employés dans le district du Cap de Bonne Espérance, &c., j'autorise tous et n'importe quels sujets de Sa Majesté Britannique à négocier à l'amiable et paisiblement avec le Roi, les régules et le peuple du dit territoire du Tembe.

Et je fais savoir par le présent que tout embarras apporté aux dits sujets de Sa Majesté Britannique, négociant paisiblement et amicalement avec le Roi, les régules et le peuple de Temby, restera sur le compte et au risque de toute personne, à quelque nation qu'elle appartienne. Et, en outre, afin d'empêcher tout obstacle illégitime aux sujets de Sa Majesté Britannique employés à tout commerce licite avec le Roi, les régules et le peuple du Royaume du Tembe, j'annonce qu'il sera toujours occasion opportune pour les navires de guerre de Sa Majesté Britannique de visiter le port de Lagoa pour protéger, au besoin, les intérêts des sujets de Sa Majesté Britannique qui se livreront amicalement au commerce avec le Roi, les régules et le peuple du Tembe ; et s'ils trouvent par hasard qu'un obstacle quelconque est apporté aux sujets de Sa Majesté Britannique, négociant licitement comme il a été déjà dit, il leur est ordonné de présenter ce document. Donné sous ma signature et mon sceau à bord de la frégate "Andromaque," de Sa Majesté Britannique, dans la Baie de Simon, au Cap de Bonne Espérance, aujourd'hui, 1 Juin, 1823, quatrième année du règne de Sa Majesté Britannique.

(Signé) JOSEPH NOWE.

A tous ceux à qui il appartiendra,

Par ordre du Chef de Division, &c.

(No. 39.)

Premier Traité de Commerce entre Makasane, Roi de Mapouto, et le Capitaine Owen, 3 Août, 1823.

(Traduction.)

Les navires entrant dans le fleuve Mapouto pour faire le commerce avec les habitants paieront d'abord au Roi un présent de la valeur de cinq livres sterling en marchandises d'après les prix de facture, et sur la somme payée dans le commerce pour un pied sur vingt de ceux qu'ils pourront obtenir par le trafic à Mapouto, c'est-à-dire, 5 pour cent.

Les bateaux paieront la somme de 10s. comme présent, et 4 pour cent. de droit après avoir complété leur chargement.

Il ne sera prélevé de droits ni de présents sur les sujets Britanniques pour aucun commerce excepté celui de l'ivoire.

¹ Archives du Ministère des Affaires Etrangères et de la Légation Portugaise à Londres.

Cette convention sera en vigueur pendant quatre ans seulement, et le Roi devra la montrer à tout Anglais qui ira négocier avec lui.

Donné sous notre signature le 3^e jour d'Août, 1823, sur le fleuve de Mapouto.

(Signé)

MAKASANE, *Roi de Mapouto.*

W. T. W. OWEN, *Capitaine du "Leven," vaisseau de Sa Majesté.¹*

(No. 40.)

Deuxième Traité entre le Roi de Mapouto et le même Capitaine, 23 Août, 1823.

(Traduction.)

Moi, Makasane, Roi de Mapouto, je déclare le fleuve Mapouto libre de toute dépendance et de toute domination sur cette terre, et je voue une amitié parfaite à tous les sujets du Roi de la Grande Bretagne, basée sur les avantages réciproques pour eux et pour les habitants de Mapouto sur ce territoire. Moi, Makasane, je déclare que dorénavant tous mes sujets pourront négocier sans restriction avec les Anglais ou autres sujets de Sa Majesté Britannique, me réservant toutefois le droit d'exiger chaque fois un présent tel qu'il a été jusqu'à présent d'usage de me payer ou de payer à mes prédécesseurs. Et sachant que mon pouvoir n'est pas suffisant pour me protéger contre des nations puissantes, je promets de ne pas me mettre en relations politiques de quelque degré ou limite que ce soit avec une autre Puissance Européenne pendant l'espace de dix ans à partir de cette date, sous les conditions suivantes : Je réserve pour moi et pour les naturels de Mapouto le droit de commerce sans restriction avec tous les peuples et toutes les nations que ne soient pas en guerre avec la Grande Bretagne. Si pendant le laps déjà mentionné de dix ans, il plaît à Sa Majesté Britannique d'établir une Colonie de ses sujets sur ce territoire de Mapouto, je donnerai librement des terres à cet effet, pourvu qu'une reconnaissance annuelle de la moindre valeur me soit payée, à moi et à mes successeurs, comme Rois de tout le Mapouto.

Si une colonie d'au moins mille pieds est fondée, je me conformerai et je souscrirai au système de Gouvernement qui sera établi sur le principe suivant pour les avantages mutuels des Anglais et des naturels de Mapouto. Les peuples des deux nations seront sujets à la même juridiction en toute matière criminelle. Les naturels étant polygamistes, selon un usage immémorial, il ne serait fait aucune tentative pour régler le rapprochement des sexes, ni pour introduire d'autres principes que ceux de la Loi Mosaique, ou du contrat civil ; mais des règlements et des lois pourront être faits pour assurer l'exécution des termes du dit contrat. Aucune femme ne sera unie à un homme sans son consentement ou celui de ses tuteurs naturels, c'est-à-dire, de sa mère et de son père avec lesquels elle vivra, ou des parents de son père, ou du roi.

Aucune créature humaine ne sera esclavée à Mapouto ; c'est-à-dire, qu'aucun homme, femme, ou enfant ne sera considéré comme la propriété d'une autre personne ; et ce sera un crime d'enlever, d'acheter ou de vendre une créature humaine et il n'y aura qu'une loi pour le gouvernement de chaque homme de Mapouto.

Il ne sera fait aucune loi ou règlement pour le gouvernement du peuple de Mapouto sans le consentement du Roi et du peuple, qui sont les tuteurs et les représentants naturels du peuple. Nous abandonnons cependant tout désir ou tout droit à nous mêler aux règlements ou au gouvernement des sujets Britanniques qui s'établiront parmi nous, à moins qu'il ne plaise à Sa Majesté Britannique de nous fonder en un seul peuple : et en ce cas les principes suivants, avec ceux qui ont été déjà établis, sont seulement ceux auxquels nous adhérons par cet acte :

Les personnes et la propriété seront toujours à la libre disposition de leurs possesseurs actuels qui pourront en disposer ou les abandonner comme il leur semblera convenable et sans obstacle, à moins qu'un tel pouvoir ne soit restreint par quelque contrat que les dits possesseurs aient fait volontairement de limiter leur proper pouvoir pour aliéner ces personnes ou ces propriétés et pour en disposer.

Les femmes sont la propriété des maris suivant les termes du contrat en vertu duquel elles sont devenues leurs épouses. Aucune femme ne sera libre de faire un contrat, quel qu'il soit, sans le consentement de ses tuteurs naturels.

Personne ne deviendra par acte ou contrat l'esclave d'un autre, dans ce sens que sa propriété passe au pouvoir d'un maître, pour lui infliger des peines ou des châtimens selon l'idée et le caprice seuls d'un tel maître. Cependant, la servitude existera : 1, pour rendre des services désignés moyennant location journalière ou paiement de gages ; 2, pour faire de certaines tâches ou travaux lorsqu'en vertu d'une convention ou d'un contrat la rémunération dépendra de l'accomplissement de ces travaux ; 3, la servitude personnelle et conditionnelle pendant tout le temps pour lequel les parents ou les tuteurs engagent les enfants, n'importe en quelle occasion avant qu'ils atteignent l'âge de 17 ans ; les hommes au-dessus de cet âge peuvent être engagés pour tout temps, pourvu qu'il n'exécède pas dix ans. Personne ne sera obligé à faire un contrat ou un engagement si ce n'est de son libre consentement ; mais après avoir fait un contrat ou un engagement, qui ne soit pas au préjudice d'une autre personne, l'exécution pourra en être rendue obligatoire. Personne, sous aucun prétexte, si ce n'est en vertu d'un jugement fait et rendu en public, et fondé sur témoignage oral donné publiquement, ne sera puni en aucune façon, ni privé de sa propriété, quelle qu'elle soit.

Les droits des personnes et des propriétés seront les mêmes pour les marins Britanniques à Mapouto, que pour les naturels du pays.

Si ces principes sont établis, j'invite librement les sujets de Sa Majesté Britannique à venir vivre

avec nous. En témoignage de quoi, j'ai signé et scellé le présent à la manière Anglaise ce 23 Août, de l'année 1823 du Christ.

Fait en notre présence à Mapouto.

(Signé)

MAKASANE.

MANDINGO, *Frère du Roi.*

W. T. W. OWEN, *Capitaine du Vaisseau de Sa Majesté "Leven."*

RD. OWEN, *Lieutenant-Commodore.*

GEO. PHILIPP et

ANSELMO JOSE DO NASCIMENTO, *Interprètes.*

(No. 41.)

Lettre du Capitaine Owen au Gouverneur de Lourenço Marques, lui communiquant le Traité avec le Mapouto, 26 Août, 1823.

(Traduction.)

Monsieur,

A bord du "Leven," Delagoa Bay, ce 26 Août, 1823.

J'ai l'honneur de vous informer que Makasane, Roi de Mapouto, a conclu un Traité de Commerce et d'Amitié avec moi, pour le compte de ma nation, et qu'il a demandé aussi la protection de Sa Majesté le Roi mon maître, et le pavillon Britannique pour montrer qu'il se considère sous sa protection ; et que j'ai accédé à tout jusqu'à ce que le bon plaisir du Gouvernement de Sa Majesté Britannique me soit connu.

C'est pourquoi j'ai l'honneur de vous prier que, dans vos démarches commerciales sur le territoire de Mapouto (d'où le Traité exclut les nations ennemies) vous considériez Makasane comme Roi, et ses sujets comme étant sous la protection de la Grande Bretagne.

J'ai aussi l'honneur de vous informer que je crois qu'il est de mon devoir de les protéger contre tout acte d'agression.

J'ai, &c.

(Signé)

W. F. W. OWEN, *Capitaine.*

A M. Miguel Loupes de Cardenas,

Commandant de l'Etablissement Portugais sur l'English River.

(No. 42.)

Dépêche du Capitaine Owen au Gouverneur-Général de Mozambique, João Manuel da Silva, du 7 Octobre, 1823.¹

(Traduction.)

Excellence,

A bord du Vaisseau de Sa Majesté "Leven," Mozambique, le 7 Octobre, 1823.

Nous avons toujours été dans l'idée que l'autorité des Portugais était pleinement établie et reconnue comme existant entre le *Cap Delgaio* et *Inhambane*, et qu'ils avaient aussi une factorerie à *Delagoa Bay* sur la Rivière Anglaise appelée par eux Lourenço Marques. Nous avons trouvé en cet endroit cette factorerie et un petit fort pour la protéger contre les naturels, mais sans juridiction politique ni aucun domaine au delà des limites de leur factorerie établie simplement pour le trafic.

Vers la même époque (Mars dernier), il arriva que pour la première fois depuis le mois de Septembre antérieur, date de mon arrivée, je reçus la visite du Roi et des Chefs indigènes de Tembe, me priant d'accepter pour Sa Majesté Britannique, mon maître, la souveraineté de ce pays de Tembe, qui est situé du côté de la Rivière Anglaise opposé à celui sur lequel les Portugais ont leur factorerie, m'offrant, pour m'y déterminer, de me donner des hommes pour le service des vaisseaux que je commande. *Sous ces conditions seulement, en la situation où j'étais, il devint de toute nécessité pour moi d'accéder à leur désir, &c.²*

(No. 43.)

Instructions laissées par le Capitaine Owen aux Gouverneurs de Lourenço Marques, 4 Septembre, 1825.

(Traduction.)

A. Les navires portant pavillon Anglais qui entreront dans cette baie ou dans cette rivière, ou qui parcourront les côtes et rivières voisines, ne seront pas visités par les officiers de Sa Majesté Très-Fidèle de la factorerie de Lourenço Marques. Les navires Anglais, leurs bateaux, leurs officiers et équipages ne seront aucunement vexés par eux, et on les laissera passer librement ; et si quelqu'un de ces navires veut mouiller près de la forteresse de Sa Majesté Très Fidèle ou y communiquer ou faire le commerce, il sera traité comme s'il était sous pavillon Portugais, et ne subira ni attaque ni violence.

B. Aucun navire Anglais ne pourra être confisqué dans les limites de cette baie sans une procédure légale devant une cour dûment et légalement constituée par autorité souveraine.

C. "Le drapeau Anglais, de même que le drapeau Portugais, ne sera pas élevé sur le Tembe

¹ Archives du Ministère des Affaires Etrangères et de la Légation de Portugal à Londres.

² Original annexé à la dépêche du Gouverneur de Mozambique du 12 Octobre, 1823, aux Archives du Ministère de la Marine.

jusqu'à ce que les Ministres de leurs Majestés aient décidé la question concernant ce territoire, dont ils doivent déjà avoir connaissance."

D. Les naturels du Tembe ne souffriront aucune atteinte dans leur vie, dans leur liberté, ou dans leurs propriétés, à cause de leur attachement, soit aux Anglais, soit aux Portugais, et ils seront libres de faire le commerce avec qui il leur plaira.

E. Le Roi Mapouto étant engagé dans un Traité de Commerce fait avec les sujets de Sa Majesté Britannique, il y a deux ans, cette factorerie n'entravera pas ce commerce sans ordre exprès du Gouverneur et Capitaine-Général de Mozambique.

Donné et signé par nous à bord du navire "Leven" de Sa Majesté dans le fleuve de Saint Esprit de la Baie de Lagoa, ce 4 Septembre, 1825.

(Signé) W. F. W. OWEN,
Capitaine du Navire "Leven" de Sa Majesté.

(No. 44.)

Rapport fait par le Gouverneur Lupi de Cardenas, en date du 28 Octobre, 1823, au sujet des attentats commis par le Capitaine Owen contre les possessions Portugaises dans la Baie de Lourenço Marques.

(Traduction.)

Ayant le devoir de donner toute protection aux propriétés des absents, conformément à l'ordre positif émané, le 18 Décembre, 1809, du juge Amaro Guedes da Silva e Sousa, protecteur des successions et des biens d'absents dans cette province de Mozambique, et, le brick Anglais "Sincapor" ayant jeté l'ancre dans le fleuve *Mapouto* (un de ceux dont les eaux se jettent dans la baie) pour y faire un commerce prohibé aux étrangers, suivant les ordres et instructions du Gouvernement, du 5 Février, 1799, j'ai cru de mon devoir, pour protéger un navire appartenant à une nation amie et étant propriété d'absents, puisque tous les officiers de ce brick avaient été enlevés par les fièvres, de faire mettre en sûreté le dit navire et d'en dresser l'inventaire, me réservant de donner connaissance de ce fait à l'autorité judiciaire de Mozambique et au Gouvernement, à la première occasion qui s'offrirait.

Dans cette circonstance, la frégate Anglaise "Leven" est entrée ici, le 2 Mars, peu de jours après que le brick eût été conduit dans le fleuve. Le capitaine et deux de ses officiers se présentèrent à ma résidence, armés de pistolets, et voulant se battre avec moi sous la raison donnée par eux que je m'étais emparé du brick, que je n'avais pas le droit de mettre des gardes à son bord ni d'empêcher les autres nations de négocier sur des terres qui n'appartenaient ni à la nation Portugaise ni à son souverain; ils dirent que si je ne faisais pas retirer la garde mise à bord du brick, et si je ne restituais ce navire, ils raserait le fort, et ils ajoutèrent que la nation Portugaise n'était composée que de voleurs qui cherchaient à exercer des droits que ne leur appartenaient pas.

Tous ces faits se sont passés en ma présence et en celle du dit capitaine, de ses deux officiers, d'une dame (sœur de Dona Sophie de Mozambique, née au Cap de Bonne Espérance) et de mon planton. Je fis appeler le Sous-Lieutenant Maximiano José Fernandes, afin qu'il assistât à ces propos, mais, dès son arrivée, ces hommes se turent et s'en allèrent. Lorsque je déclarai à ces officiers que je porterais plainte contre eux devant le Gouvernement de Mozambique et le Congrès, ils répliquèrent que *ce n'était pas la première fois que les Anglais agissaient ainsi* et qu'ils répondraient de tout devant le Parlement; après quoi ils s'emparèrent du brick.

Dans ces circonstances difficiles, le peu de forces dont je pouvais disposer pour résister à une semblable agression, ainsi que ma crainte de rompre les liens d'amitié qui ont toujours existé entre la nation Portugaise et la nation Anglaise, me condamnèrent à la plus sévère prudence; j'étais encore obligé d'observer cette conduite en songeant qu'une nation civilisée n'est pas toujours responsable des attentats commis par un officier ou un individu quelconque de cette nation, et surtout, en ayant en vue le § 9 des instructions du 5 Février, 1799, qui recommande la plus grande modération afin de ne pas sacrifier les faibles ressources militaires de cette place.

Cet homme (Owen), abusant des explorations qu'il n'a pu effectuer que grâce à la liberté que le Gouvernement Portugais lui a généreusement laissée, et sachant que la *possession Portugaise était plutôt gardée par la politique que par la force*, a cherché à persuader aux peuplades et aux régules, surtout au régule de *Tembe*, nommé *Maietta*, qui devait avoir le titre de *Capella* dès que le Gouvernement l'aurait reconnu, et au régule de *Mapouto* nommé *Macassana*, subordonné du premier, qu'ils ne devaient aucune obéissance au Gouvernement Portugais, et il leur donna le titre de *rois* afin d'exciter leur enthousiasme et de pouvoir ainsi plus facilement faire des traités avec eux, à l'ombre de la fausse indépendance dont il les gratifiait.

Cette trahison est d'autant plus évidente que le capitaine, sachant que personne dans cette ville ne comprenait l'Anglais, m'a écrit dans cette langue une lettre dont je joins ici copie et dont je n'ai pu savoir le contenu qu'à l'arrivée dans cette baie du brick de voyage à bord duquel j'ai trouvé un traducteur. Ayant pris connaissance de cette lettre et voyant le drapeau Anglais flotter sur l'emplacement de nos anciennes fortifications, je me rendis à *Mapouto*, accompagné du capitaine du navire de voyage, *Vincente Thomás dos Santos*, afin de connaître plus exactement la situation. J'ai été mis au fait des événements et je me suis assuré que le régule *Macassana* sait fort bien à qui il doit obéissance, ce que prouve sa déclaration dont j'envoie ci-inclus une copie.¹ Ce même régule m'a montré des papiers écrits en Anglais que le Capitaine Owen lui avait fait remettre en lui assurant qu'il en pourrait tirer de nombreux avantages et un grand profit, et il ajouta que, pour peu que ces papiers continssent un offense aux *Molungos* (c'est ainsi qu'ils nomment les Portugais, tandis qu'ils désignent les Anglais sous le nom de *Mabodes*) il les détruirait, attendu qu'il ne voulait aucunement nous offenser.

¹ C'est le Document No. 32.

Owen a fait un écrit dans lequel il déclare que *Maietta*, petit-fils de Capella, livrera à Sa Majesté ces terres ; cependant, à tous les titres, à l'exception de celui de la force, ces terres appartiennent à la nation Portugaise, et cela pour les raisons suivantes :—

1. Les prédécesseurs de ces régules de *Tembe* ont été faits régules par notre Gouvernement, qui a consacré ce titre. Il y a quelques années à peine que Louis Correa, alors gouverneur de cette place, fit reconnaître l'aïeul de ce *Maietta* comme régule vassal de ce gouvernement, en allant même pour cela le chercher là où il s'était réfugié.

2. Il y a encore sur ces terres une *colonne aux armes de Portugal*, ce que prouve que la nation Portugaise n'a jamais abandonnée ses droits de souveraineté sur ces possessions.

3. Il y a peu près quatre ans, les Vatuas ayant attaqué Tembe, Caetano Mattoso, qui était ici gouverneur, a racheté de ses propres deniers les terres occupées par les Vatuas afin d'y rétablir l'ordre et de les remettre de nouveau au pouvoir de Capella.

4. Enfin, pour abréger, il est constant que le même *Maietta* n'était pas encore en possession de ces terres, vu que la prise de possession ne peut lui être conférée que par le gouverneur de cette place qui doit présider à cette cérémonie, et que ce n'est que le 19 courant qu'il est venu rendre foi et hommage dans ce fort, me demandant de le faire reconnaître par les peuplades du Tembe, ce qui a été fait suivant les formes usitées, ainsi que le constate le procès-verbal dont j'envoie copie.¹

C'est ainsi qu'a été consommée la trahison faite au Gouvernement Portugais et à ces peuples ; le régule, les principaux de sa cour et son peuple ont déclarée ce qui est contenu dans le document dont la copie se trouve ci-jointe,² et ont demandé avec les plus vives instances que le drapeau Portugais fut de nouveau arboré, ce que je m'empresserai de faire. Cette déclaration a été faite en présence du subrécargue des deux schooners, nommé Macuard, que l'on dit neveu de l'Amiral Nowe ; aussi lui ai-je écrit à cet effet la dépêche dont j'envoie copie,³ afin que les choses eussent faites avec la plus grande clarté, et aussi parce que le même Capella a voulu répéter en présence des Anglais ce qui est contenu dans la présente déclaration que Macuard a refusé de signer comme témoin, attendu qu'elle contenait une réprobation des actes du Capitaine Owen. Ce refus a été mentionné dans le procès-verbal de cette même déclaration. Il est à remarquer que ces navires avaient leurs papiers et leur autorisation signés par l'oncle du subrécargue Macuard.⁴ Nous envoyons ci-joint ces documents qui prouvent jusqu'à la plus grande évidence la trahison et l'intrigue.

Dans les dépêches enregistrées adressées par les gouverneurs de cette province, il est expressément ordonné de ne permettre sous aucun prétexte aux étrangers de faire le commerce dans cette baie ; cela est clairement spécifié dans la dépêche du 26 Mai 1801 émanée de son Excellence le Gouverneur Francisco Guedes de Carvalho e Menezes da Costa, dans celle du 1 Décembre 1802, de Son Excellence le Gouverneur Izidoro de Almeida Sousa e Sá, et qui a pour titre "Instructions pour le Gouverneur et Capitaine-Major de la Baie de Lourenço Marques, ou son successeur," chap. 9, §§ 1, 2, 3 et 4 ; et récemment, dans la dépêche que j'ai apportée de Mozambique, le 23 Novembre 1822, et qui est signée par son Excellence João Manuel da Silva, Lieutenant-Général et Gouverneur de cette province.

Que faire pourtant ? Les Anglais avancent chaque jour davantage dans la baie, ils veulent y fonder un établissement, font leur commerce à loisir et me forcent à laisser sans répression la contrebande des navires qui entrent dans la baie ; ils me menacent continuellement et, pour se faire des partisans, calomnient mon caractère et me représentent comme un méchant homme. Je demande seulement au Gouvernement de vérifier la vérité de mes assertions, car je ne puis souffrir qu'ils continuent à pratiquer de semblables actes, et si l'épithète qu'il me donnent était méritée, ils n'auraient pu en abuser, enfreindre les déterminations et les ordres du Gouvernement et porter leur audace jusqu'à pratiquer des actes tels que ceux-ci :

1. S'emparer du brick, et accompagner cette action de violences que je ne puis qualifier.

2. Faire des traités avec les indigènes.

3. Arborer le drapeau Anglais partout où bon leur semble.

4. Enlever des mains des autorités de Mozambique un prisonnier qui avait été envoyé sur les terres de Machacana pour y attendre l'arrivée d'un navire qui le remit au pouvoir de qui de droit, mettre ce prisonnier en liberté et le faire promener sous mes yeux en compagnie des Anglais eux-mêmes.

Ces injures et ces humiliantes offenses envers la garnison et le Gouvernement de la province atteignent la nation Portugaise et son souverain. Je demande, en conséquence, que tous ces faits soient pris en la plus grande et la plus urgente considération par le Gouvernement de Mozambique, qu'ils soient portés à la connaissance de la nation, du Roi et des hauts fonctionnaires de la magistrature, afin que soient prises immédiatement les mesures qui seront jugées convenables pour obtenir la réparation exigée par l'honneur et par la dignité de la nation Portugaise.

J'affirme sur mon honneur que ce rapport est en tous points l'expression de la vérité qui, d'ailleurs, est suffisamment démontrée par les pièces annexées au présent document.

(Signé)

MIGUEL LUPI DE CARDENAS, Gouverneur.

Baie de Lourenço Marques, ce 28 Octobre, 1823.

Enregistré par ordre de ce Gouvernement au livre 3 de ce Gouvernement.

(Signé)

ANTONIO PEDRO TEIXEIRA, Greffier par intérim.⁵

Baie de Lourenço Marques, ce 28 Octobre, 1823.

¹ C'est le Document No. 33.

² C'est le Document No. 34.

³ C'est le Document No. 47.

⁴ C'est le Document No. 38.

⁵ Archives du Ministère des Affaires Etrangères et de la Légation Portugaise à Londres.

*Dépêche du Gouverneur de Lourenço Marques concernant l'attentat commis par le Capitaine Owen,
5 Septembre, 1825.*

(Traduction.)

La malheureuse situation où se trouve la Baie de Lourenço Marques depuis l'arrivée du Capitaine de frégate W. S. W. Owen de la corvette "Leven" de Sa Majesté Britannique et commandant de l'expédition chargée de travaux hydrographiques sur cette côte, m'enhardit à rendre compte à votre Excellence des événements arrivés sous mon Gouvernement; les outrages et la conduite du Capitaine Owen pendant le Gouvernement de défunt mon prédécesseur ont déjà été mis sous les yeux de Sa Majesté, néanmoins je dois informer votre Excellence que la corvette "Leven," le brick de guerre "Barracouta" et une goëlette sont entrés dans la baie le 28 du mois dernier, et y ont trouvé le brick "Eleonor of London" qui était sans équipage à cause de la mort et de la maladie des officiers et de la plupart des matelots et qui avait été séquestré pour avoir fait la contrebande de l'ivoire ainsi que le prouvent le procès-verbal et l'inventaire ci-annexés. Le 29, le Capitaine Owen m'envoya une lettre à laquelle je répondis; le 30 il m'adressa une autre dépêche à laquelle je fis réponse le même jour; nonobstant, ce même jour 30, il fit bloquer la porte du fort à une distance de 50 brasses par le brick "Barracouta" pour nous obliger à rendre le navire confisqué et sa contrebande. Toutefois, après avoir pris connaissance de ma dépêche, il me fit demander s'il pouvait faire saluer le port de 21 coups de canon, je lui répondis que ce salut lui serait immédiatement rendu. Le salut terminé, ils firent l'exercice. Pendant que moi et mes gens, accoudés sur le parapet du fort, nous assistions à cet exercice, une balle vint frapper au front le tambour du détachement et l'étendit raide mort. Mes hommes prirent immédiatement les armes, mais comme je pensais que cet événement était uniquement dû au hasard, je fis conserver le plus grand calme possible afin d'éviter les funestes conséquences d'un conflit entre les deux troupes. Je fis immédiatement prévenir de cet événement le Capitaine Owen qui envoya de suite un chirurgien dont les soins furent inutiles; après quoi il me fit exprimer ses regrets de ce malheureux accident. Je lui répondis que je l'attribuais à une cause purement accidentelle et je lui observai qu'au lieu de faire l'exercice à 50 brasses du fort, il aurait pu le faire au milieu de la baie. Dans la même nuit, le brick s'en fut jeter l'ancre au large. Enfin le 31, après m'avoir envoyé une dépêche, Owen vint lui-même bloquer la porte du fort et envoya le "Barracouta" bloquer le fort par un autre côté. Le Capitaine était disposé à nous attaquer et à raser le fort si je ne l'abandonnais dans les 24 heures. Je fis de suite appeler tous les officiers et employés, et tous furent d'avis de capituler, ce que je fis par une dépêche, attendu que les forces dont je pouvais disposer ne me permettaient pas de défendre le fort avec notre artillerie, que mes soldats n'étaient pas équipés en guerre et que cette expédition était protégée par des ordres de Sa Majesté, et mille fois supérieure à nous par la force. Enfin, ayant reçu une nouvelle dépêche, je me rendis à bord accompagné du greffier, du Lieutenant et de l'aumônier et porteur de ma patente et de mes instructions; de cette façon le Capitaine Owen fut persuadé que je n'avais agi que d'après des ordres reçus; immédiatement le Capitaine quitta le mouillage et me dit qu'aucun de mes prédécesseurs ne lui avait fait savoir qu'ils étaient gouverneurs de toute la baie, mais seulement de ce fort, et ainsi furent évités des malheurs, car je n'aurais pas hésité, malgré le peu de forces que j'avais à ma disposition, à traiter les agresseurs en pirates, ne sachant pas que le Capitaine Owen, d'après son dire, avait agi par l'ignorance où il était de mes instructions.

C'est ainsi que la tranquillité fut rétablie des deux parts. Le dit Capitaine promit d'adresser à votre Excellence toute sa correspondance et la mienne, mais son départ précipité ne m'a pas permis d'envoyer des copies que je remettrai à Lisbonne par voie de Mozambique; quant au brick et à sa contrebande dont l'inventaire accompagne cette lettre, votre Excellence décidera ce que bon lui semblera. Je supplie votre Excellence, dans l'intérêt de la nation, et par considération pour les quelques Portugais qui sont arrivés, à l'aide de leur courage et de leur persévérance et par des moyens pacifiques, à subjuguier même les Rois Hottentots qui, quoique étant la terreur de ces côtes, viennent humblement rendre hommage à notre drapeau, et respectent ce fort uniquement parce qu'il est Portugais, je supplie, dis-je, votre Excellence d'insister près de Sa Majesté Don Jean VI, afin qu'il en finisse avec les intrigues des Anglais qui envoient des navires faire la contrebande dans cette baie, tels que la goëlette "Talisbury," Capitaine W. Corlet, de Liverpool, qui vient faire la contrebande à main armée, et dont l'équipage a même, dans l'Oxalanga, tué quelques nègres qui voulaient s'opposer à son débarquement.

Et enfin, je supplie votre Excellence d'examiner les moindres détails de cet événement afin de rendre à Sa Majesté compte de ma conduite, afin que je sache comment je devrai agir dorénavant.

Je prends, &c.

(Signé)

XAVIER SCHMID VON BELLIKEY.¹

Baie de Lourenço Marques, 5 Septembre, 1825.

*Extrait d'une Lettre Officielle du Gouverneur de Lourenço Marques, Xavier Schmid, du 6 Juin, 1826,
au Ministre de La Marine.*

(Traduction.)

Le Capitaine Owen, arrivant dans cette baie au mois d'Août 1825 avec sa division, a fait enlever (du Tembe) par une escorte, le drapeau Portugais, et l'a emporté avec lui en Angleterre. Il nous a

¹ Archives du Ministère des Affaires Etrangères et de la Légation Portugaise à Londres.

assiégés deux fois, et la deuxième il voulait me forcer à abandonner le fort dans les 24 heures en menaçant d'employer la force ; comme je ne pouvais pas manquer d'être fait prisonnier avec toute la garnison, n'ayant pas de forces suffisantes pour lui résister, j'ai été contraint de capituler, comme vous le verrez par les copies ci-jointes ; cependant lorsque je lui eus montré ma patente il me dit qu'il s'était trompé. Toutes les lettres et tous les rapports sont envoyés à votre Excellence par le canal de Mozambique ; il y a déjà six mois que je les ai expédiés ; votre Excellence les recevra par l'entremise du Ministre Portugais à Londres ou directement de moi. Les attentats du Capitaine Owen dans cette baie doivent provoquer la juste indignation de Sa Majesté.

(No. 47.)

Dépêche adressée à M. Macuard, subrécargue de deux navires Anglais, pour assister aux déclarations du Régule de Tembe, 20 Octobre, 1823.

(Traduction.)

Le Gouverneur m'ordonne de vous adresser la présente dépêche. Etant venu dans ce territoire de Tembe, selon la coutume, pour en donner possession à Maieta, afin qu'il soit reconnu régule de cette contrée, sous le titre de Capella, et lui ayant demandé ce qu'il y avait relativement à de vagues nouvelles que le même Gouverneur avait à l'égard du Capitaine W. Owen, de la frégate "Leven," ce Maieta m'a assuré qu'il n'y en avait aucune, et qu'il n'existait même aucuns rapports entre lui et le susdit Owen. Et afin de rendre évidente la vérité, attendu que non-seulement Maieta lui-même, mais aussi tous les grands de ces terres sont présents, il a besoin que vous et tous les autres Anglais qui pourront le faire comparaissent à cet acte avec leurs interprètes, pour que tout soit bien évident et pour qu'il en soit décidé avec justice par ceux à qui ce devoir reviendra. L'acte ne manquera pas d'avoir lieu lors même que vous et les autres Anglais comme sujets Britanniques ne comparâtriez pas, note de la présente dépêche devant être prise sur l'acte.

J'ai, &c.

(Signé) ANTONIO PEDRO TEIXEIRA, Greffier par intérim.

Au Sieur Macuard, Subrécargue des deux schooners.

Baie de Lourenço Marques à Tembe, ce 20 Octobre, 1823.

Extrait du livre des enregistrements No. 3, fol. 13, verso et 14, où l'original a été enregistré par ordre du Gouverneur.

Baie de Lourenço Marques, ce 28 Octobre, 1823.

(Signé) ANTONIO PEDRO TEIXEIRA, Greffier par intérim.

(No. 48.)

Extrait d'une dépêche du Ministre des Affaires Etrangères à notre Ambassadeur à Londres, 29 Mai, 1824.

(Traduction.)

Votre Excellence recevra sous ce pli la copie de la lettre officielle du Gouverneur de Mozambique en date du 10 Octobre de l'année dernière et celle de sa correspondance avec le Capitaine Owen du navire "Leven," surintendant des côtes du levant en Afrique.

Ces documents éclaireront votre Excellence sur la question soulevée ici à l'égard des biens du capitaine du brigantin Anglais "Sincapore," mort à Inhambane, et qui s'est terminée par la prise de possession, par le Capitaine Owen, de ce qui existait en coffre, appartenant à ces mêmes biens, en vertu de l'autorisation produite par le dit capitaine et présentée dans ce but, circonstances qu'il importe que votre Excellence connaisse pour le cas où on lui en parlerait.

Mon principal but néanmoins, en adressant cette correspondance à votre Excellence, est de lui donner parfaite connaissance des faits afin que votre Excellence, dans l'occasion et les termes qu'elle jugera convenable, réclame auprès du Gouvernement Britannique contre l'établissement que les Anglais prétendent fonder dans la baie de Lourenço Marques au préjudice des droits légitimes de Sa Majesté Très-Fidèle, ainsi que votre Excellence le verra par les dits documents.

Je rappellerait à votre Excellence qu'elle doit appuyer la réclamation ci-dessus ordonnée, sur la Convention de 1817, dans laquelle est déclaré appartenir à la Couronne Portugaise le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques, droits que ne peuvent d'aucune manière affaiblir les fuites arguments présentés par le Capitaine Owen.

(No. 49.)

Extrait d'une dépêche du Ministre des Affaires Etrangères au Ministre Portugais à Londres, 7 Août, 1824.

(Traduction.)

Sous ce pli je remets à votre Excellence les copies de quelques documents arrivés dernièrement à ce Ministère, et qui concernent la question de la Baie de Lourenço Marques, question qui a déjà fait l'objet de la dépêche que j'ai envoyée à votre Excellence le 29 du mois de Mai dernier. Ces papiers présentant, d'une part, un document qui tend à prouver que le régule Capella a fait un Traité par lequel il se reconnaît sujet de la Grande-Bretagne, et, d'autre part, un autre document postérieur par

lequel le dit régule déclare n'avoir fait aucun Traité et ne reconnaître que les anciens droits de Sa Majesté Très-Fidèle sur ces régions, impliquent une contradiction évidente que votre Excellence prendra sans doute en considération, afin de pouvoir, en réunissant ces documents aux autres déjà reçus, donner la meilleure suite aux ordres de Sa Majesté Très-Fidèle contenus dans la susdite dépêche, que j'ai communiquée à votre Excellence.

(No. 50.)

Dépêche du même Ministre à l'Ambassadeur Portugais à Londres, 15 Avril, 1826.

(Traduction.)

Excellence,

Palais de Notre-Dame d'Ajuda, ce 15 Avril, 1826.

Ayant déjà, par ma dépêche No. 101, accusé réception du rapport de votre Excellence No. 79, il me reste à apprendre à votre Excellence que j'ai remis au Ministre de la Marine et des Colonies la lettre et l'acte qui s'y trouve annexé, et qui a été adressée à votre Excellence par le Gouverneur de la Baie de Lourenço Marques et qui accompagnait la même dépêche. Comme les actes pratiqués dans la Baie de Lourenço Marques par le commandant de la corvette Anglaise "Leven" sont des plus saillants, non-seulement à cause des procédés hostiles de cet officier depuis son arrivée dans ces parages, mais aussi par la violence dont il s'est rendu coupable, en s'emparant du brick "Eleonor of London," qui avait été mis en séquestre avec toute justice, puisque l'on avait trouvé dans la cale de ce navire 1,925 livres d'ivoire, il est indispensable que votre Excellence demande au Gouvernement Anglais des explications sur ces faits qui se trouvent relatés dans la copie de la communication que votre Excellence dit avoir laissée à l'Ambassade, lorsqu'elle m'envoya la dépêche du Gouverneur de la Baie de Lourenço Marques.

Dieu garde, &c.
(Signé) COMTE DA PONTE.

M. le Marquis de Palmella.

(No. 51.)

Extrait d'une dépêche de Don Francisco de Almeida au Marquis de Palmella, 21 Octobre, 1826.

(Traduction.)

Excellence,

Les actes d'usurpation pratiqués par les Anglais dans la Baie de Lourenço Marques méritent la plus sérieuse attention; et malgré la position délicate dans laquelle nous nous trouvons avec les Anglais, il faut immédiatement poursuivre la répression d'un fait qui compromet les intérêts et la dignité de la nation; votre Excellence doit donc s'adresser au Gouvernement Anglais, et lui demander la juste réparation d'une si grave insulte.

Je trouve inutile de recommander à votre Excellence la dignité et la prudence qui doivent présider à cette réclamation.

(No. 52.)

Instructions au Ministre Portugais à Londres pour réclamer contre les attentats du Capitaine Owen, 17 Mars, 1827.

(Traduction.)

Excellence,

Palais de Notre-Dame d'Ajuda, ce 17 Mars, 1827.

Je remets à votre Excellence la copie d'une dépêche qui m'a été adressée par le Ministre des Finances, et qui doit corroborer ce que j'ai déjà eu l'honneur de dire à votre Excellence dans ma dépêche No. 42 qui répondit à celle de votre Excellence, No. 117, réservée. La conduite du commandant de la frégate "Leven" dans la Baie de Lourenço Marques mérite de fixer toute notre attention, c'est pourquoi votre Excellence ne manquera pas au premier moment opportun, d'exiger du Gouvernement Anglais la satisfaction qui nous est due. Les documents ci-inclus, que m'ont été remis par le Ministre de la Marine et des Colonies, pourront servir à votre Excellence pour réclamer la réparation d'une aussi grave insulte. Dans toute cette affaire, qui est d'une haute importance, votre Excellence agira avec la circonspection exigée par nos rapports actuels avec la Grande-Bretagne.

Dieu garde, &c.
(Signé) D.^e FRANCISCO DE ALMEIDA.

M. le Marquis de Palmella.

(No. 53.)

Résumé d'une dépêche du Ministre des Affaires Etrangères à notre Ambassadeur à Londres, sur la réclamation relative à Lourenço Marques, 28 Avril, 1827.

(Traduction.)

Additionnellement à ce que j'ai déjà écrit à votre Excellence dans une autre dépêche, je lui remets une copie de la représentation qui a été adressée à la Sérénissime Infante Régente par ceux qui ont entrepris l'établissement de la factorerie de la Baie de Lourenço Marques.

Je dois rappeler à votre Excellence que cette affaire mérite la plus grande attention, quoique je reconnaisse que, dans les actuelles circonstances, il sera fort difficile de la mener à bonne fin, ainsi que les autres affaires d'égale nature dont votre Excellence a été chargée d'après les ordres de la Sérénissime Infante Régente.

ANNEXE.

Sérénissime Altesse,

Les entrepreneurs de l'établissement de la factorerie de la Baie de Lourenço Marques représentent à votre Altesse qu'ils sont entrés dans la dite entreprise appuyés sur un diplôme royal qui leur assurait comme bon l'emploi de leur capitaux, de leur industrie et de leur activité, choses qui constituent la fortune des soussignés, consacrée à maintenir dans les domaines de la couronne ce point important de ses possessions, comme cela est facile à comprendre. Il est pourtant à remarquer ce qui suit : le manque de nouvelles directes de Mozambique ajoute à la crainte qu'ont les soussignés de perdre les premiers capitaux employés à la fondation de l'établissement sus-mentionné, car, d'une part, on assure que les ordres émanés de la Cour ont trouvé de l'opposition à Mozambique, de l'autre on dit la Colonie de Lourenço Marques envahie par les incursions des armateurs et des commandants des forces navales de la Grande-Bretagne, qui finiront ainsi par anéantir l'établissement des soussignés et, par conséquent, toute leur fortune. Dans la consternation où ces nouvelles, quelque vagues qu'elles puissent être, ont plongé les soussignés, ils ont cherché à s'assurer de la vérité, afin de se mettre sous la protection du Gouvernement de Votre Altesse, mais ils n'ont pu rien savoir et n'ont pu obtenir de nouvelles que par Rio de Janeiro et Londres, nouvelles qui, sans confirmer positivement ces bruits, laissent néanmoins les soussignés dans la plus grande perplexité. Le prochain départ du vaisseau de voyage est une occasion, pour les soussignés, de ne point tarder à représenter à Votre Altesse la nécessité où ils se trouvent de supplier Votre Altesse de prendre leur respectueuse demande en considération et de donner de nouveaux ordres aux autorités de Mozambique, afin qu'elles maintiennent en vigueur les concessions faites par l'Empereur et Roi, que Dieu garde, en protégeant et en favorisant l'entreprise des soussignés comme cela est indispensable à sa réussite et à la gloire de la monarchie, et en défendant l'établissement contre les hostilités des croiseurs et des commandants Anglais, hostilités qui, si elle continuent, auront pour conséquence et la ruine des soussignés et la séparation de cette baie des domaines de la couronne. Considérant comme trop certaine la nouvelle qui leur a appris l'établissement des Anglais dans le port de Sainte-Lucie, fait qui cause aux soussignés un considérable préjudice, d'abord parce que le commerce qui devait venir à leur factorerie est attiré dans ce port, et ensuite parce que les Anglais, à l'aide de leurs intrigues, excitent les régules contre les Portugais, comme cela est avéré, ce qui constitue d'ailleurs une usurpation des domaines de la couronne, les soussignés espèrent que Votre Altesse fera en sorte que les choses soient remises en l'état qu'elles doivent avoir.

(No. 54.)

Note du 17 Juin, 1826, adressée à Lord Canning par le Ministre Portugais à Londres contre l'attentat du Capitaine Owen.

Londres, ce 17 Juin, 1826.

Le soussigné a l'honneur de remettre ci-joint à son Excellence Mr. Canning, Principal Secrétaire d'Etat de Sa Majesté Britannique au Département des Affaires Etrangères, l'extrait d'une dépêche qui lui a été adressée par le Gouverneur du fort situé dans la Baie de Lourenço Marques sur la côte orientale d'Afrique, de même que l'extrait du procès verbal qui était joint à la susdite dépêche.

Il résulte, comme son Excellence le verra du contenu de ces deux pièces, que le Capitaine Owen de la marine Britannique s'est présenté le 28 Août, 1825, devant la forteresse ci-dessus indiquée, et a réclamé la remise d'un bâtiment qui se trouvait sous le séquestre par les autorités Portugaises, pour avoir, en violation des lois Portugaises et Traités existants, notamment de l'Article 8 du Traité de Commerce de 1810, fait la contrebande dans le territoire appartenant à Sa Majesté Très-Fidèle, délit qui se trouve indubitablement prouvé par la découverte de 1225 livres pesant d'ivoire, qui étaient cachées dans le fond du susdit bâtiment.

Le Gouverneur s'étant refusé, comme de raison, à remettre ce bâtiment, qu'il se réservait d'envoyer à Mozambique, afin que la légalité de la prise fut jugée par les tribunaux compétents, il paraît que le Capitaine Owen s'est porté à des actes de menace, et qu'abusant de la supériorité de ses forces, il a exigé l'évacuation de la forteresse dans l'espace du 24 heures, et la remise du bâtiment détenu, n'ayant désisté de la première de ces demandes que moyennant la concession de la seconde. Son Excellence verra également que, tandis que ces pourparlers avaient lieu de part et d'autre, un soldat de la garnison Portugaise a été tué (sans doute involontairement) par un coup de fusil partie de la frégate Britannique, dont il paraît qu'on exerçait l'équipage à portée de fusil de la forteresse Portugaise.

Enfin son Excellence verra que le Capitaine Owen s'est engagé sur sa parole d'honneur à envoyer le bâtiment susdit en Angleterre afin que la question de la validité de la prise y pût être discutée avec l'intervention du représentant de Sa Majesté Très-Fidèle dans ce pays.

Le soussigné ayant reçu toutes les susdites communications de la part des autorités Portugaises de la Baie de Lourenço Marques, a cependant différé d'adresser au Gouvernement Britannique aucune réclamation jusqu'à ce qu'il eût reçu à cet égard des instructions de la part de sa Cour ; et, c'est à présent, en conséquence des ordres qui lui ont été expédiés de Lisbonne, que le soussigné a l'honneur de s'adresser à son Excellence Mr. Canning, pour le prier de faire procéder à l'examen du fait dont il s'agit, et pour demander la remise du bâtiment et de la cargaison dont le Capitaine Owen s'est emparé d'une manière aussi illégale, pour être jugé par les tribunaux compétents en Portugal.

Le soussigné ne saurait douter que, si le Gouvernement Britannique acquiert la preuve que le séquestre du brick "Eléonor" avait eu lieu en conséquence d'un acte flagrant de contrebande, si en outre, le Capitaine Owen reconnaît lui-même qu'il a employé la violence, ou des menaces hostiles pour enlever le susdit bâtiment d'un établissement appartenant au territoire Portugais, le soussigné ne saurait douter, il le répète, que le Gouvernement de Sa Majesté Britannique ne s'empresse à désavouer un semblable outrage, ainsi que d'accorder l'indemnisation qui paraîtra suffisante, si par hasard il n'était plus possible de recouvrer le brick et sa cargaison.

Le Soussigné, &c.

(Signé)

LE MARQUIS DE PALMELLA.

A son Excellence M. Canning,
&c. &c. &c.

(No. 55.)

Réponse de George Canning, Ministre des Affaires Etrangères de Sa Majesté Britannique, à la Note du Marquis de Palmella, le 4 Juillet, 1826.

(Traduction.)

Ministère des Affaires Etrangères, ce 4 Juillet, 1826.

Le soussigné, Secrétaire d'Etat de Sa Majesté pour les Affaires Etrangères, a l'honneur d'accuser réception de la note officielle du 17 du mois dernier, dans laquelle le Marquis de Palmella, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté Très-Fidèle en cette Cour, se plaint de la capture faite par le Capitaine Owen du navire "Leven," de Sa Majesté, d'un navire Anglais qui avait été confisqué par les autorités Portugaises de la Baie de Lourenço Marques, pour y avoir fait la contrebande ; le soussigné a l'honneur d'informer son Excellence que le Capitaine Owen est attendu en Angleterre dans un mois, et qu'immédiatement après son retour, il sera appelé pour rendre compte de sa conduite.

Le Soussigné, &c.

(Signé)

GEORGE CANNING.

Au Marquis de Palmella,
&c. &c. &c.

(No. 56.)

Note du Ministre Portugais à Londres adressée à Lord Dudley sur l'attentat du Capitaine Owen, 23 Mai, 1827.

Londres, ce 23 Mai, 1827.

Le soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Très-Fidèle, a l'honneur d'annoncer à son Excellence Lord Dudley, qu'il a reçu la Note par laquelle le Principal Secrétaire d'Etat de Sa Majesté Britannique au Département des Affaires Etrangères, prédécesseur de son Excellence, a répondu à celle que le soussigné lui avait adressée en date du 17 Juin, 1826, pour se plaindre de la violence commise par le Capitaine Owen, Commandant du navire de guerre Britannique "Leven," en enlevant de vive force le navire "Eléonora" qui se trouvait légalement détenu dans le port de Lourenço Marques, près de la forteresse.

Il paraît que le Capitaine Owen cherche à fonder sa justification sur ce que le susdit navire aurait été saisi par les autorités Portugaises comme faisant la contrebande à Mapoota, et il révoque en doute les droits de la Couronne de Portugal sur ce territoire.

Son Excellence Mr. Canning, en donnant connaissance au soussigné de l'allégation du Capitaine Owen, ajoute, que le Gouvernement de Sa Majesté Britannique désire, comme il est naturel, faire justice aux droits de Sa Majesté Très-Fidèle ainsi qu'aux réclamations de ses propres sujets, et il demande à être informé des principes sur lesquels se fonde le droit de souveraineté de la Couronne de Portugal sur ce territoire en question.

Le soussigné prendra, cependant, d'abord la liberté d'observer que lors même que le droit de souveraineté de Sa Majesté Très-Fidèle sur tous les territoires contenus dans la Baie de Lourenço Marques ne fût pas, comme il est, incontestable, la conduite du Capitaine Owen dans le cas dont il s'agit, ne lui paraîtrait pas moins reprehensible. Le navire "Eléonora" se trouvait détenu dans un port Portugais, et la légalité de sa détention devait être soumise à une cour de justice. Ainsi les sujets de Sa Majesté Britannique auraient pu en réclamer légalement la remise et auraient eu droit à des indemnités contre toute lésion injuste. Mais le Capitaine Owen, en employant la force pour l'enlever, s'est constitué lui-même juge dans une cause qui n'était pas de son ressort, et a évidemment commis un attentat contre la loi des nations et contre les relations d'amitié qui subsistent heureusement entre les deux Couronnes.

Cette question paraît au soussigné n'admettre aucun doute et il espère de l'esprit d'équité et d'impartialité du Gouvernement Britannique une réparation complète et la restitution du navire pour être jugé par les tribunaux Portugais compétents, Sa Majesté Britannique ayant toujours, comme de raison, le droit de réclamer dans les formes ordinaires en faveur de ses sujets, dans le cas improbable où ils se trouveraient lésés.

Après cette déclaration, dictée par son devoir, le soussigné passera à répondre aux questions qui lui sont adressées dans la note de son Excellence Mr. Canning, avec d'autant plus d'empressement qu'il a reçu de son Gouvernement des ordres réitérés pour protester contre les actes du Capitaine Owen pendant son séjour dans la Baie de Lourenço Marques, actes qui tendent à dépouiller la Couronne de Portugal de la possession légitime, depuis des siècles, d'une partie du territoire compris dans cette baie, et c'est là le point essentiel de la réclamation du soussigné.

Les droits de la Couronne de Portugal s'établissent :—1, sur la priorité, qu'on ne saurait lui contester de la découverte de cette côte dès les premiers voyages des Portugais dans l'Inde ; 2, sur les factoreries qui y ont été fondées et qui existent encore maintenues par une forteresse dans la Baie de Lourenço Marques où le Gouvernement de Mozambique envoie une garnison ; 3, sur des conventions et des actes de reconnaissance continuellement réitérés depuis plusieurs siècles de la part des chefs des peuplades Africaines qui habitent cette côte et qui ont invariablement reconnu la suprématie et la souveraineté de la Couronne de Portugal ; 4, sur l'admission constante de tous les Gouvernements Européens qui ont jusqu'à présent respecté ces droits, comme on peut le vérifier par la simple inspection des cartes géographiques ; 5, enfin, sur l'Article 2 de la Convention du 28 Juillet, 1817, dont le soussigné joint copie, et qui fournit la preuve de l'acquiescement explicite et formel du Gouvernement Britannique lui-même aux droits de souveraineté de la Couronne de Portugal sur tous les territoires de la côte orientale d'Afrique compris entre le Cap Delgado et la Baie de Lourenço Marques.

Le Capitaine Owen ignorant sans doute l'existence de cette Convention et poussé par un zèle que le soussigné osera accuser d'indiscrétion, a profité de son séjour dans la Baie de Lourenço Marques pour conclure avec les Chefs du territoire de Tembe et de Mapouto des espèces de Traités par lesquels ceux-ci se reconnaîtraient comme sous la protection de la Grande-Bretagne, en violation évidente des actes de reconnaissance antérieurs par lesquels ces mêmes chefs ont depuis longtemps reconnu la souveraineté de la Couronne de Portugal. Les autorités Portugaises du voisinage ont de suite protesté formellement contre ces actes, et le soussigné croit qu'il n'est pas nécessaire de se livrer à une discussion juridique pour démontrer l'invalidité de semblables contrats conclus avec les chefs de peuplades à demi sauvages, lors même qu'ils ne se trouveraient pas en contradiction avec des Traités antérieurs. Les droits de souveraineté, sur la plus grande partie des territoires possédés par les États Européens en Afrique ou en Amérique, seraient difficiles à soutenir si on voulait en soumettre la légalité à une controverse avec les naturels du pays, et si on ne se contentait, en général, de les établir sur la date de la découverte et de la fondation d'établissements Européens.

Cependant s'il était besoin, dans ces cas, d'opposer aux Traités du Capitaine Owen d'autres documents analogues, il serait facile d'en présenter, et le soussigné en fournira la preuve, transmettant ci-joint pour l'inspection de son Excellence Lord Dudley les copies de plusieurs actes et déclarations authentiques qui constatent les relations de suzeraineté existantes entre la Couronne de Portugal et les Chefs des territoires avec lesquels le Capitaine Owen a traité. Il y joindra, pour mieux éclairer la question, des copies du Traité et d'une partie de la correspondance du Capitaine Owen, et il réclame surtout l'attention du Gouvernement de Sa Majesté Britannique sur la lettre adressée par le susdit Capitaine au chef de la factorerie Portugaise, contre le contenu de laquelle le soussigné est obligé de protester, et proteste officiellement au nom de Sa Majesté Très-Fidèle. Le soussigné observera que le Capitaine Owen lui-même a paru subséquemment douter du droit d'arborer le pavillon Britannique sur le territoire de Tembe, quoique dans la lettre précédemment citée il s'arrogeât ce droit.

Le Capitaine Owen tout en avouant que les Portugais possédaient des factoreries dans ces mêmes territoires, prétend que ces factoreries ne prouvent pas la domination de la Couronne de Portugal, et ne sont établies que pour des objets de commerce. Cependant il est notoire que tous les établissements Portugais sur la côte d'Afrique ont porté au commencement la dénomination de factoreries, sans que les droits de la Couronne de Portugal aux territoires environnants en soient pour cela moins généralement reconnus.

Le soussigné joindra aux autres pièces annexes à la présente Note, une copie de la Note qui a été adressée par feu Lord Londonderry au Chargé d'Affaires de Portugal au moment du départ de l'expédition du Capitaine Owen, et son Excellence Lord Dudley avouera que le Gouvernement Portugais aurait dû être loin de s'attendre à l'esprit d'empiètement et de chicane que cet officier paraît avoir manifesté pendant son séjour dans les établissements Portugais. La première question traitée dans cette Note, c'est-à-dire, celle qui a rapport au navire "Eléonora," devient ainsi un accessoire de la seconde. C'est sur cette seconde question que le soussigné réclame surtout l'attention de son Excellence Lord Dudley. Il est persuadé que le Gouvernement Britannique ne choisirait pas le moment actuel pour révoquer en doute des droits qui n'ont jamais jusqu'à présent été contestés à la Couronne de Portugal, et que Sa Majesté Britannique elle-même, dans la Convention du 28 Juillet, 1817, a explicitement reconnus. Dans cette conviction, le soussigné réclame que les actes du Capitaine Owen dans la Baie de Lourenço Marques soient formellement désapprouvés ; et que les bâtiments de guerre Britanniques se soumettent dans cette baie aux mêmes lois et règlements qu'ils observent dans les autres possessions de la Couronne de Portugal.

Le Soussigné, &c.

(Signé)

LE MARQUIS DE PALMELLA.

A son Excellence Lord Dudley.

(No. 57.)

Troisième Note du même Ministre à Lord Dudley sur le même sujet, le 22 Mai, 1828.

Londres, ce 22 Mai, 1828.

Le soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Très-Fidèle, aurait dû depuis longtemps accuser réception de la Note de son Excellence Lord Dudley du 5 Décembre dernier,* s'il n'avait craint de détourner l'attention de son Excellence d'autres questions et affaires relatives au Portugal d'une importance majeure, et qui demandaient avec urgence à être traitées de préférence à toutes. Cependant le soussigné ne saurait laisser passer plus longtemps sans accuser réception de la Note ci-dessus mentionnée, d'autant plus qu'il se voit obligé de combattre les

* Cette lettre manque.

raisonnements qu'elle contient, et à protester, comme il le fait officiellement, contre les conclusions que son Excellence en tire.

La Note dont il s'agit a été adressée par Lord Dudley en réponse à celle que le Marquis de Palmella avait eu l'honneur d'écrire à son Excellence en date du 23 Mai, 1826, pour se plaindre de la conduite suivie par le Capitaine Owen de la Marine Britannique, pendant sa croisière sur les côtes des Colonies Portugaises de l'Afrique Orientale.

Les plaintes que le Gouvernement Portugais s'est vu forcé d'adresser à cette occasion au Gouvernement de Sa Majesté Britannique se réduisent en résumé à la violence exercée par le Capitaine Owen, lors de la saisie à main armée du bâtiment marchand "Eléonor" qui se trouvait détenu sous le canon d'un fort Portugais dans la Baie de Lourenço Marques, et surtout contre la prise de possession d'une partie du territoire, appartenant à la susdite Baie de Lourenço Marques, effectuée par le Capitaine Owen, malgré les protestations des autorités Portugaises, et en violation des droits que la Couronne de Portugal a réclamés et maintenus dès les premiers temps de la découverte de ces parages, sans que jamais ils lui aient été contestés.

En répondant aux plaintes qui lui furent adressées par le soussigné, son Excellence le Comte de Dudley veut justifier la conduite du Capitaine Owen quant au premier point (la reprise du bâtiment "Eléonor") "sur ce que la saisie de ce bâtiment effectuée par le commandant Portugais du fort de Lourenço Marques avait été faite de manière et accompagnée de circonstances qui la rendaient tout à fait illégale, et que la sentence ou le jugement qui allait être prononcé sur cette affaire, aurait émané d'un tribunal tout à fait incompetent pour décider la question de la propriété du territoire de laquelle dépendait la légalité de la prise."

Son Excellence permettra au soussigné de répliquer que, quelle que puisse avoir été l'erreur originairement commise par les autorités Portugaises (en supposant qu'il y ait eu erreur, ce que le soussigné n'a pas les moyens de décider, ni l'autorisation d'accorder) il n'en est pas moins vrai, que la violence exercée par le Capitaine Owen, lors de la reprise de ce bâtiment, est coupable comme contraire aux droits des nations et à la bonne amitié qui subsiste entre les Couronnes de Portugal et de la Grande-Bretagne, et doit être même regardée comme un acte hostile commis par cet officier contre les intentions indubitables de son Gouvernement. Il est évident que le Capitaine Owen s'il jugeait les droit d'un sujet de Sa Majesté Britannique lésés, pouvait et devait en réclamer la réparation, en réclamant et protestant en faveur de ces droits ; mais il est également clair, que pour réparer la violation qui, dans sa manière de voir, avait été commise, il ne devait jamais avoir recours à la force et à la violence dans un port appartenant à Sa Majesté Très-Fidèle. En agissant ainsi le Capitaine Owen a substitué son propre jugement à celui qu'un tribunal, qu'il réputait incompetent, allait prononcer tandis que la seule marche légale qu'il y avait à suivre dans le cas où les représentations qu'il aurait faites seraient demeurées sans effet, était de porter l'affaire à la connaissance du Gouvernement Britannique, qui certes aurait réclamé et obtenu promptement de Sa Majesté Très-Fidèle les réparations et les indemnités auxquelles il aurait eu droit.

Le soussigné prie son Excellence de ne pas perdre de vue que le Capitaine Owen ne s'est pas borné, comme son Excellence paraît l'indiquer dans sa Note, à tenir un langage un peu rude motivé par les reproches qu'il croyait avoir à faire aux autorités Portugaises ; mais qu'il a positivement commis un acte hostile en tirant le canon contre la forteresse de Lourenço Marques, où un soldat a été tué, et en menaçant de détruire la dite forteresse si le bâtiment qu'on y retenait ne lui était pas remis. Si ce fait est positif, comme le soussigné n'en doute pas, vue les rapports officiels qu'il a sous les yeux, il laisse à son Excellence à juger si le Gouvernement Portugais peut avec honneur ne pas porter plainte contre la conduite d'un officier qui a commis un semblable attentat. La question n'est donc pas de savoir si la prise du bâtiment "Eléonor" était légale ou non, ou si le Tribunal qui allait la juger était compétent, mais si le Capitaine Owen pouvait en aucun cas aller jusqu'à employer la force pour reprendre ce bâtiment dans un port Portugais. M. le Comte de Dudley est bien loin sans doute de sanctionner une semblable doctrine, d'après laquelle la force suffirait pour qu'un bâtiment de guerre quelconque exerçât son autorité dans les ports des autres nations.

En se livrant à cette longue et pénible analyse, le soussigné remplit un devoir dont il croit ne pouvoir se dispenser. Son principal but est de ne pas donner lieu, en gardant le silence, à inférer qu'il admet les arguments sur lesquels son Excellence fonde la défense du Capitaine Owen. Du reste le temps qui s'est écoulé, et les événements survenus depuis le commencement de cette affaire dispensent le soussigné d'insister sur les réparations, que d'ailleurs son Gouvernement serait autorisé à espérer de la loyauté et de la justice du Gouvernement Britannique.

Le second point et le plus important sans doute, dont il s'agit dans la note, à laquelle le soussigné à l'honneur de répondre, est celui des droits de la Couronne de Portugal sur le territoire dont le Capitaine Owen a jugé à propos de prendre une espèce de possession au nom de Sa Majesté Britannique. M. le Comte de Dudley paraît croire que le soussigné n'allègue d'autres fondements pour prouver les droits de la Couronne de Portugal, que celui que les Portugais ont été les premiers à découvrir ce territoire. Cette raison suffit sans doute pour démontrer qu'aucune autre nation n'en avait possession avant eux, mais elle ne suffirait pas pour établir leurs droits, si elle n'avait été suivie d'une possession maintenue sans dispute pendant plusieurs siècles, et fortifiée par la reconnaissance des peuplades qui habitent ce pays, formellement consignée dans des conventions et des documents aussi valides sans doute, que la convention que le Capitaine Owen a induit le Chef de Mapouto à conclure avec lui, et qui ont sur cette dernière l'avantage incontestable de la priorité de date.

Si les Portugais ne possèdent pas actuellement des factoreries dans le territoire même de Mapouto, il n'en est pas moins incontestable que les autorités établies au fort de Lourenço Marques étendent la sphère de leur juridiction sur tous les territoires baignés par cette baie et exercent une suzeraineté reconnue par tous les habitants moyennant des traités qui leur imposent une espèce de prestation d'hommage ; cela est si vrai que même, après le départ du Capitaine Owen, le chef ou, comme on le nomme, Roi de Mapouto, a signé le 8 Octobre, 1823, une protestation déclarant qu'il

ne reconnaissait que les Portugais pour seigneurs de ses terres, et qu'il n'avait entendu ni pu en faire donation à Sa Majesté Britannique, puisqu'elles appartenaient au Roi de Portugal.

Le soussigné a en son pouvoir non-seulement la dite protestation, mais aussi les copies des traités antérieurs, et il est persuadé que, quelque valeur qu'on veuille attacher à de semblables actes, il suffisent en tout cas pour invalider celui que le Capitaine Owen a signé, et par lequel il prend sous la protection de Sa Majesté Britannique les territoires que la Couronne de Portugal a jusqu'à présent possédés.

Les Traités dont il s'agit ne sont pas (comme M. le Comte de Dudley paraît l'indiquer dans une partie de sa Note, dans laquelle il maintient que ces nations quoique à demi sauvages sont néanmoins indépendantes) ces traités ne sont pas de la nature de ceux que des Gouvernements libres contractent entre eux pour des objets de commerce, et qui laissent la liberté d'en conclure d'autres semblables avec d'autres nations; ce sont au contraire de véritables traités de vasselage d'une part, et de protection de l'autre, de manière que l'une des deux parties renonce évidemment aux droits d'aller chercher une autre protection. Son Excellence Lord Dudley ne saurait nier que le Traité que le Capitaine Owen a prétendu dernièrement est de cette nature, que le territoire de Mapouto y est pris sous la protection de Sa Majesté Britannique, et qu'en admettant, comme il est de fait, que des stipulations semblables à celle-là existassent depuis longtemps entre les Chefs de ce territoire et le Gouvernement Portugais, il n'est pas possible de supposer que le Gouvernement Britannique veuille empiéter sur les droits de priorité d'une Puissance son intime alliée.

Ainsi il devient inutile d'examiner si ces peuplades sont ou non assez avancées en civilisation pour comprendre la valeur de semblables actes, car si on les suppose trop ignorantes pour pouvoir disposer d'elles-mêmes, alors le Traité que le Capitaine Owen a conclu serait aussi nul et insuffisant que les Traités antérieurs, et le Portugal aurait toujours à alléguer la possession non contestée de ces territoires, et les actes de souveraineté exercés au nom de la Couronne de Portugal par les Gouverneurs des fortresses qu'elle possède sur cette côte. Et dans le cas où on voudrait regarder les Chefs de ces peuplades comme compétents pour prendre des engagements solennels, alors on ne peut nier que les Traités antérieurs, et la protestation postérieure à celui du Capitaine Owen, n'établissent d'une manière triomphante la réclamation de la Couronne de Portugal.

Le Marquis de Palmella, dans sa première note, a eu l'honneur de porter à la connaissance de M. le Comte de Dudley un article de la Convention signée entre le Portugal et la Grande Bretagne, le 28 Juillet, 1817, dans lequel il est expressément reconnu que les territoires appartenant à la Couronne de Portugal, sur la côte orientale d'Afrique, s'étendent depuis le Cap Delgado jusqu'à la Baie de Lourenço Marques. Le soussigné espérait que ce témoignage patent d'un droit reconnu par un Traité formel suffirait pour décider la question, et il avoue qu'il ne pouvait s'attendre à l'interprétation que M. le Comte de Dudley veut y donner en alléguant qu'on doit entendre que ces possessions s'étendent entre le Cap Delgado et la Baie de Lourenço Marques, mais ne les comprennent pas inclusivement. Le soussigné prendra la liberté d'observer que, quant au Cap Delgado, il ne peut y avoir de question, puisque c'est un point déterminé où commencent les possessions Portugaises. Quant à la Baie de Lourenço Marques, où il est dit que ces possessions se terminent au sud, il faut supposer que l'on sous-entend le mot *exclusivement* ou *inclusivement*, car sans cela on aurait dit d'une manière expresse quel est le point compris dans la Baie de Lourenço Marques où les possessions Portugaises se terminent. Or, on n'a pu sous-entendre le mot *exclusivement*, puisqu'il est indubitable que la Couronne de Portugal possède des forts et des établissements dans l'enceinte de cette baie. Il s'ensuit donc par une conséquence indéniable qu'il faut supposer le mot *inclusivement*; et le soussigné se persuade, à dire vrai, qu'aucun juge impartial auquel on donnerait à interpréter le sens de l'article dont il s'agit, n'hésiterait à décider que la Baie de Lourenço Marques, tout entière, puisqu'on n'a pas spécifié d'autres limites, doit être regardée comme comprise dans les territoires reconnus pour appartenir à la Couronne de Portugal.

Le soussigné croit inutile de s'appesantir davantage sur cette discussion. Il espère que son Excellence Lord Dudley voudra bien excuser la longueur excessive de cette note et prendre en considération le devoir qui, dans les circonstances actuelles, est plus que jamais imposée au soussigné de maintenir et défendre les droits de Sa Majesté Très Fidèle, et de ne pas donner lieu même par son silence à ce qu'on puisse les croire lésés. L'objet dont il s'agit, quoiqu'il ne paraisse pas être dans le moment actuel d'une importance immédiate, peut cependant le devenir et mérite en tout cas d'être traité comme une question grave et dans laquelle il s'agit, d'une part, de soutenir des droits que l'on croit incontestables, et de l'autre, d'agir comme les deux Gouvernements ne peuvent que le vouloir, d'une manière conforme à la justice et aux relations amicales qui subsistent heureusement entre eux.

Le soussigné ajoutera seulement qu'il se flatte que M. le Comte de Dudley ne saurait jamais douter du respect et des égards qui sont dus à son opinion, et que son Excellence ne verra dans celle que le soussigné a énoncée que l'accomplissement d'un devoir qui n'affecte en rien ses sentiments.

Il a l'honneur, &c.
(Signé) LE MARQUIS DE PALMELLA.¹

A son Excellence Lord Dudley.

¹ "Despachos e Correspondencias do Duque de Palmella," colligidos e publicados por J. J. dos Reis e V. Sconcellos. Lisboa, 1854, tome ii, p. 379, et tome iii, pp. 123, 141, 154, 370, 407, et 515.

(No. 58.)

Extrait de la dépêche du Commissaire Portugais du Cap de Bonne-Espérance, Louis Charles Rebello, 22 Juin, 1855.

(Traduction.)

Je n'ai rien pu apprendre qui confirmât ou fit évanouir les appréhensions que j'ai manifestées dans ma dépêche No. 3, que j'ai eu l'honneur d'adresser à votre Excellence le 20 Mars dernier, à l'égard des projets de visite de Sir George Grey à Lourenço Marques, mais ce dont je crois être bien sûr, c'est qu'il n'a pas abandonné cette idée, et qu'il l'exécutera aussitôt qu'il aura l'inspection des frontières de cette Colonie, inspection à cause de laquelle il va entreprendre le voyage de Port Natal.

En attendant, j'ai cru devoir prévenir immédiatement le Gouverneur de la dite possession Portugaise de ce projet de visite du Gouverneur-Général de cette Colonie, et lui communiquer confidentiellement l'extrait de ma dépêche adressée à votre Excellence, et ci-dessus indiquée à l'égard des appréhensions que cette visite m'inspirait.

* * * * *

Ce qui me préoccupe, c'est l'ambition constamment manifestée ici de posséder une partie de notre baie; et la visite de Sir George Grey dans un pays qui est loin d'être salubre, n'est pas de nature à dissiper mes craintes.

En tout cas le Gouverneur de Lourenço Marques est prévenu, et sans doute il ne manquera pas de faire part à son Excellence le Ministre de la Marine et des Colonies de l'arrivée de Sir Grey et de toutes ses démarches.

L'avocat C. I. Brand, *Speaker* de l'Assemblée Législative, est décidé sur l'invitation des Boers, à visiter la République du Transvaal pour rédiger (on me l'assure) leur constitution politique, et je ne doute pas que Sir George Grey charge ce Mr. Brand (qui est descendant des Hollandais) d'induire les Boers à entrer dans la Confédération qu'il a en vue, et dont j'ai fait mention dans ma dépêche No. 3.

(No. 59.)

Dépêche du Contre-Amiral Keppel au Gouverneur-Général de Mozambique, lui envoyant copie de celle qu'il avait adressée au Gouverneur de Lourenço Marques, au sujet de la partie méridionale de la Baie, 28 Juillet, 1860.

A bord du "Brisk," Vaisseau de Sa Majesté Britannique, sur l'English River, à Delagoa Bay, ce 28 Juillet, 1860.

(Traduction.)

J'ai l'honneur d'informer Votre Excellence qu'hier, à mon arrivée dans ce port, j'ai appris par son Excellence le Gouverneur du district Portugais de Lourenço Marques, que le 26e degré (si ce n'est le 27e) de latitude sud est considéré comme la frontière des territoires du Portugal sur la côte orientale d'Afrique, et qu'en outre, son Excellence avait reçu des instructions pour choisir un port dans l'Île d'Inyach. C'est pourquoi j'ai cru qu'il était de mon devoir d'écrire à son Excellence une lettre, dont j'ai l'honneur d'envoyer ci-joint la copie.

Comme je me dirige vers le nord, j'irai à Mozambique, et j'aurais l'honneur d'aller trouver personnellement votre Excellence.

J'ai, &c.

(Signé) HENRI KEPPEL, *Contre-Amiral, Commandant en chef des vaisseaux de Sa Majesté au Cap de Bonne-Espérance et à la Station de la Côte d'Afrique.*¹

(No. 60.)

Lettre de Keppel, Contre-Amiral et Commandant du "Brisk," sur les Limites des Possessions Portugaises à la Baie de Lourenço Marques, adressée au Gouverneur de cette Baie, 28 Juillet, 1860.

(Traduction.)

En raison de la communication que votre Excellence m'a faite que la ligne du 26e degré (si ce n'est celle du 27e) de latitude sud est considérée comme la frontière du territoire appartenant à la Couronne du Portugal, j'ai l'honneur de vous informer que le Gouvernement de Sa Majesté Britannique n'ayant connaissance d'aucun Traité sur ce sujet, postérieur à celui du 22 Janvier, 1815, considère la Baie de Lourenço Marques, Dundas, ou English, comme étant la frontière entre la possession Britannique et la possession Portugaise, et que la partie méridionale de Delagoa Bay et le territoire au sud de la rivière susnommée ayant été cédés en 1823 à la Couronne de la Grande-Bretagne et de l'Irlande, le Gouvernement de Sa Majesté maintient son droit à réclamer et à conserver ce territoire. J'ai donc l'honneur de protester respectueusement, au nom du Gouvernement de Sa Majesté Britannique, contre toute occupation du dit territoire, aussi bien que contre toute juridiction sur les navires faisant le commerce du côté de la rive sud ou droite du fleuve de Lourenço Marques, Dundas, ou English.

J'ai, &c.

(Signé) HENRI KEPPEL, *Contre-Amiral, Commandant en chef des vaisseaux de Sa Majesté Britannique au Cap de Bonne-Espérance, et de la Station de la Côte d'Afrique.*¹

Réponse du Gouverneur-Général de Mozambique, au Contre-Amiral Keppel, 7 Août, 1860.

(Traduction.)

Excellence,

*Palais du Gouvernement-Général de la Province de Mozambique.
ce 7 Août, 1860.*

J'ai l'honneur de vous accuser réception de votre dépêche du 28 Juillet dernier, qui m'a été remise aujourd'hui par un officier du "Brisk," vapeur de Sa Majesté Britannique, ainsi que la copie d'une autre dépêche adressée par votre Excellence au Gouverneur du district de Lourenço Marques au sujet des limites méridionales des possessions appartenant à la Couronne de Sa Majesté Très-Fidèle. Comme Gouverneur-Général de Mozambique, je dois déclarer à votre Excellence que les droits de Sa Majesté Très-Fidèle au territoire de la Baie de Lourenço Marques, n'ont pas, que je sache, été contestés jusqu'à ce jour; bien au contraire, le Gouvernement de Sa Majesté Britannique a reconnu le droit de la Couronne de Portugal au territoire de la Baie de Lourenço Marques par l'Article 2 de la Convention Additionnelle au Traité du 22 Janvier, 1815, entre le Portugal et la Grande Bretagne, signée le 28 Juillet, 1817. Par cet article est déclaré Portugais tout territoire compris entre le Cap Delgado et la Baie de Lourenço Marques. Conformément à cela, le Gouvernement du Roi de Portugal a toujours considéré les deux rives de la baie comme lui appartenant notoirement, et comme comprises dans les domaines Portugais de la côte orientale d'Afrique. Quoiqu'il n'existe pas une ligne de démarcation de frontières entre ces domaines, il n'est jamais survenu aucune contestation à l'égard du littoral de la Baie de Lourenço Marques.

Pour ces motifs, et prenant connaissance du protêt adressé par votre Excellence au Gouverneur de Lourenço Marques, je ne puis m'empêcher de manifester très-respectueusement à votre Excellence que je ne suis pas autorisé à reconnaître le droit de cession que votre Excellence invoque sur une partie du territoire de la Baie de Lourenço Marques. Il aurait dû y avoir un accord entre les deux Gouvernements pour l'établissement de limites déterminées, mais il n'est pas à ma connaissance que cet accord ait eu lieu. Il me semble, par conséquent, que cette question doit être préalablement traitée par nos Gouvernements respectifs, et que les droits incontestés jusqu'à présent de la Couronne de Sa Majesté Très-Fidèle au littoral de la Baie de Lourenço Marques, doivent être maintenus, tels qu'ils ont subsisté jusqu'à ce jour, c'est-à-dire dans toute leur plénitude. Comme Gouverneur de la Province de Mozambique, il m'appartient de sauvegarder ces droits par tous les moyens à ma disposition, et de protester dès à présent et au nom de mon Gouvernement contre toute violation de territoire ou toute restriction des droits du souveraineté de Sa Majesté Très-Fidèle sur cette partie de ces domaines, droits spécialement garantis par les Traités qui unissent aujourd'hui et qui ont uni depuis longtemps la Grande Bretagne et le Portugal.

En attendant, je porterai, par la première occasion, à la connaissance de mon Gouvernement, la correspondance de votre Excellence sur cet objet, afin qu'il agisse comme il lui paraîtra le plus convenable.

Dieu garde, &c.

(Signé) JOAO TAVARES DE ALMEIDA, Gouverneur-Général.

Son Excellence Henri Keppel, Contre-Amiral,

Commandant-en-chef de la Station Navale de Sa Majesté Britannique
au Cap de Bonne-Espérance et sur la Côte d'Afrique.

Dépêche du Commissaire Portugais du Cap de Bonne-Espérance au Ministre des Affaires Etrangères à l'égard du Bruit de l'Occupation de la Baie par les Anglais, 12 Novembre, 1861.

(Traduction.)

Excellence,

Commission Mixte de la Ville du Cap, ce 12 Novembre, 1861.

Un navire est arrivé dans ce port venant de l'île Maurice et apportant la nouvelle de la mort de la Reine de Madagascar, qui a occupé la Trône des Hovas depuis la mort de Radama, en 1828. Pendant ce long règne, les Européens ont toujours été bannis de ses Etats, et elle a fait mettre à mort tous ceux de ses sujets qui suivaient la religion du Christ: le commerce extérieur n'était permis que dans deux des ports de ce royaume et toute communication avec l'intérieur des terres était absolument défendue. La mort de cette reine despotique amènera sans doute une politique plus libérale envers les Européens.

Dès que cet événement a été connu, M. de Routannay, négociant très-riche de Bourbon et qui a acquis une grande influence à Madagascar, grâce à l'étendue de son commerce, est parti pour cette île.

A la requête de Rakouta, fils de la Reine et son successeur au Trône, il est parti à bord du vapeur "Mascareignes" accompagné du père Jean, Chef de la Mission Catholique.

Je dois faire observer à votre Excellence que M. de Routannay est Consul de Portugal à Bourbon, et qu'il peut devenir un jour très-utile aux intérêts commerciaux du Portugal à cause de sa grande influence sur le nouveau Roi de cette île, car je ne puis douter un seul instant que l'influence Française ne domine un jour la politique du Gouvernement de ce pays.

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Aussitôt qu'il eut connaissance de ces nouvelles, l'Amiral Baldwin Walker envoya immédiatement la corvette de guerre "Brisk" à Madagascar, pour observer les événements et sauvegarder les intérêts de l'Angleterre contre l'influence de la France dans cette île.

J'ai déjà eu l'honneur de communiquer, à plusieurs reprises, dans mes dépêches au Gouvernement de Sa Majesté, que l'Angleterre ressentait une violente jalousie de la grande influence que la France a dans cette île; elle craint surtout que cette nation vienne à s'emparer d'une contrée si riche, si importante à cause de sa position, et qui se trouve sur la route des Indes. La politique du Gouvernement Anglais dans ces mers se résume dans ces paroles de Lord Castlereagh: "Toute position sur la route de l'Inde doit nous appartenir, et nous appartiendra." Cet axiome orgueilleux domine toute la politique orientale de la Grande Bretagne; Gibraltar, Malte, Corfou dans la Méditerranée; Perin, Aden, Maurice dans ces mers, ont réalisé en partie ce plan de domination jalouse; mais l'Angleterre voudra-t-elle entrer en contestation avec la France au sujet de la domination de cette île? On ne peut le dire pour le moment, mais on peut assurer que ces événements sont considérés comme étant de la plus grande importance, à ce point que malgré le départ de la corvette "Brisk" pour Madagascar, la frégate "Narcissus" est partie également et il paraît que d'autres navires de guerre Anglais, qui font la croisière de Mozambique, doivent s'y réunir. Comme j'ai pu profiter d'un navire faisant voile vers cette province, j'ai pris la liberté de faire part à M. le Gouverneur Tavares d'Almeida de ces événements, ainsi que du bruit qui court ici, et auquel je ne puis ajouter foi—"que la frégate 'Narcissus' est partie d'ici pour s'emparer de notre Baie de Lourenço Marques et pour y arborer le pavillon Anglais."

J'envoie à votre Excellence, sous ce pli, un fragment du journal qui publie ce fait. Je surveillerai cette affaire importante, comme il est de mon devoir, et je tiendrai votre Excellence au courant de ce qui aura lieu.

Enfin, je ne puis m'empêcher de prendre la liberté d'appeler l'attention de votre Excellence sur ma dépêche No. 16 de cette année; car j'imagine que cette nouvelle extraordinaire du départ de la frégate Anglaise "Narcissus" pour aller planter son pavillon à Lourenço Marques doit avoir pour but de cacher, soit son voyage à l'île de Madagascar, soit réellement la prise de possession de la partie sud de cette baie, qui est à nous et qui a été cédée à la Grande Bretagne, par le régule Maïetta Capella, ainsi que je l'ai dit dans cette dépêche, soit enfin seulement la prise de possession de l'île de Inyack, qui est à l'entrée de la baie. La Grande Bretagne voudra-t-elle faire de cette île un petit Gibraltar, afin de défendre le passage de l'Inde dans le cas où la France s'emparerait de Madagascar? Si je ne me trompe, cette dernière Puissance possède déjà, au sud de cette île, le Port de Sainte Marie, qui est presque vis-à-vis de la Baie de Lourenço Marques.

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Dieu garde, &c.
(Signé) ALFRED DUPRAT.¹

A son Excellence le Conseiller Antonio José d'Avila,
Ministre et Secrétaire d'Etat des Affaires Etrangères.

(No. 63.)

Protestation adressée par le Commissaire Portugais au Gouverneur de cette Colonie, contre l'Annexion de l'Unhaca à la Colonie de Natal, le 5 Décembre, 1861.

(Traduction.)

Monsieur, Chambre des Séances de la Commission Mixte, ce 5 Décembre, 1861.

J'ai lu dans la "Gazette du Gouvernement" la nouvelle suivante:

"Ce 25 Novembre, 1861.

"Son Excellence le Lieutenant-Gouverneur chargé de ce Gouvernement, fait savoir que, le 5 courant, le pavillon Britannique a été arboré sur l'île Inyack à Delagoa Bay, et que cette île ainsi que l'île adjacente connue sous le nom d'île des Eléphants ont été déclarées possessions de Sa Majesté et annexées à la Colonie de Natal."

Il est de mon devoir de déclarer que les îles sus-mentionnées font partie des domaines du Portugal dont les droits ont été reconnus par le Gouvernement Britannique et confirmés par le Traité du 22 Janvier, 1817, où il est établi:

Que les territoires possédés par la Couronne de Portugal sur la côte d'Afrique au sud de l'Equateur, sont, sur la côte orientale d'Afrique, le territoire situé entre le Cap Delgado et la Baie de Lourenço Marques, et sur la côte occidentale, tout celui qui est situé entre le 8e et 18e degrés de latitude sud.

Je prie donc votre Excellence de vouloir bien envoyer par le prochain courrier à son Gouvernement une copie de cette déclaration au nom de la Couronne Portugaise, et j'ai toute confiance que le Gouvernement Britannique, dans sa droiture, ordonnera que ces îles soient remises en la possession de Sa Majesté le Roi de Portugal, mon auguste Souverain.

J'ai, &c.
(Signé) ALFRED DUPRAT, Commissaire du Portugal.

(No. 64.)

Réponse du Gouverneur à la dépêche précédente, 10 Décembre, 1861.

(Traduction.)

Monsieur, Palais du Gouvernement, Ville du Cap, ce 10 Décembre, 1861.

J'ai l'honneur de vous accuser réception de votre lettre datée du 5 courant, relative à l'annexion à la Colonie du Natal des îles d'Inyack et des Eléphants, dans la Baie Delagoa, ainsi que cela a été

¹ Archives du Ministère de la Marine.

annoncé dans une notice publiée par ce Gouvernement le 25 du mois dernier, et déclarant que les îles en question font partie des domaines du Portugal en vertu d'un Traité conclu avec le Gouvernement Britannique en date du 22 Janvier, 1815.

Accédant à votre demande je transmettrai au Gouvernement de Sa Majesté, par le prochain courrier, une copie de votre déclaration.

J'ai, &c.
(Signé) R. H. TRIPEYOOD.

(No. 65.)

Lettre du même Commissaire au Secrétaire de l'Amiral sur l'Annexion de l'Unhaca et Réponse à cette Lettre, 10 Décembre, 1861.

(Traduction.)

Mon cher M. Pritchard,

Commission Mixte, ce 10 Décembre, 1861.

Savez-vous, et en cas affirmatif, vous est-il permis de m'informer si la prise de possession des îles de Inyack et de l'Eléphant a eu lieu avec le consentement du Gouvernement Portugais? Je tiens à être renseigné là-dessus avec exactitude, car j'ai toujours été dans la persuasion que ces îles appartiennent à la Couronne de Portugal.

Je suis, &c.
(Signé) ALFRED DUPRAT.

Mon cher M. Duprat,

Simon's Town, 10 Décembre, 1861.

Les instructions pour la prise de possession des îles dont vous parlez sont venues d'Angleterre; je présume donc que des communications à cet égard auront été faites au Gouvernement Portugais. Le Gouverneur-Général de Mozambique a été informé de ce que le pavillon Anglais avait été arboré sur ces îles.

Je suis, &c.
(Signé) C. A. PRITCHARD.

(No. 66.)

Dépêche du Commissaire Portugais au Cap de Bonne-Espérance sur l'Annexion des Îles de l'Unhaca et des Eléphants à la Colonie du Natal, 21 Décembre, 1861.

(Traduction.)

Excellence,

Ville du Cap, ce 21 Décembre, 1861.

La notification officielle qui suit a paru dans le journal officiel du Gouvernement, portant la date du 25 Novembre de cette année: "Son Excellence le Gouverneur chargé de l'administration de ce Gouvernement, fait savoir que le drapeau Anglais a été arboré le 5 Novembre sur les îles de Inyack et de l'Eléphant, qui ont été déclarées possessions de Sa Majesté Britannique et annexées à la Colonie du Natal."

J'ai hésité pendant quelques jours à agir dans cette importante circonstance, parce que j'ai cru qu'il était de la compétence de M. le Gouverneur-Général de la Province de Mozambique, et non de la mienne, de protester contre l'usurpation inouïe du territoire des domaines du Portugal; cependant, ayant en vue la dépêche de ce Ministère, No. 10, du 16 Novembre, 1859, qui m'autorise, en qualité de Commissaire pour le Portugal, à correspondre directement et officiellement avec le Gouverneur de cette Colonie en matière d'esclavage et à l'égard d'autres affaires urgentes, qui peuvent intéresser le Gouvernement de Sa Majesté, muni de cette autorisation et pour ne pas manquer à mes devoirs, j'ai pris la résolution d'adresser au Gouverneur de cette Colonie, en date du 5 Décembre de cette année, la dépêche dont j'envoie la copie à votre Excellence, ainsi que la réponse qui m'a été faite.

Cependant, ayant rencontré le Gouverneur il y a quelques jours, "son Excellence m'a dit qu'il lui semblait que le Gouvernement Anglais avait pris possession de ces îles avec le consentement du Gouvernement Portugais;" j'ai demandé aussitôt à son Excellence s'il m'était permis de voir cette dépêche, et sur son ordre, le Secrétaire-Général de la Colonie me l'a montrée confidentiellement. Je n'y ai pas vu que le Gouvernement de Sa Majesté eût donné son consentement à la prise de possession de ces îles; mais, si je me le rappelle bien (car il ne m'a pas été permis d'en prendre copie), c'était tout simplement une dépêche signée par le Duc de Newcastle, portant la date du 4 Octobre dernier et disant que: "Vue que les territoires au sud de la Baie de Lourenço Marques avaient été cédés au Gouvernement Britannique en 1823 (ce qui est justement le Traité dont j'ai envoyé la copie à votre Excellence, sous la lettre F, le 16 Septembre dernier), l'Angleterre en avait pris possession formellement et les avait annexées au Gouvernement de Natal."

Croyant aussi que l'Amiral de cette station devait avoir des instructions de son Gouvernement pour agir ainsi à l'égard de cette possession, je me suis aussitôt adressé particulièrement à M. Pritchard, Secrétaire de l'Amiral, lui demandant des détails sur cette affaire (ci-joint copie de ma lettre et de la réponse). Il me répondit que les instructions à l'égard de la prise de possession de ces îles étaient venues d'Angleterre et qu'il présumait que le Gouvernement de Sa Majesté était au fait de cette affaire, et que le Gouverneur de Mozambique en avait été informé.

La frégate "Narcissus" ne m'a pas apporté une seule lettre du Gouverneur de ce district. qui

aurait très-bien pu m'en envoyer une ; et je n'ai pas été plus heureux à l'arrivée d'un autre navire de guerre, le "Penguin," qui est arrivé de Lourenço Marques quelques jours après. J'ai su seulement que ce navire avait visité dans cette baie un trois-mâts Portugais qui y était à l'ancre, et qu'il ne l'avait pas capturé parce qu'il n'y avait rien trouvé de contraire au Traité.

Il ne me reste plus qu'à dire à votre Excellence que le Gouvernement Anglais vient de jeter le masque, après avoir naguère poussé les hauts cris au sujet de l'annexion de la Savoie et de Nice à la France. Il usurpe maintenant des territoires qui appartiennent depuis des siècles à sa plus ancienne et fidèle alliée, et je crains que ces annexions ne continuent, et qu'il ne veuille posséder le Louabo pour les communications avec le Zambèze, les îles de Bazarout, et qui sait si quelques-unes des îles de l'Ibo, sous prétexte d'exercer sa surveillance au sujet de la traite des nègres.

C'est tout ce que j'ai à dire à votre Excellence à cet égard, et j'espère que votre Excellence daignera approuver ma correspondance avec ce Gouvernement sur cette affaire.

Dieu garde, &c.
(Signé) ALFRED DUPRAT.

A Son Excellence le Conseiller Antonio José d'Avila,
Ministre et Secrétaire d'Etat des Affaires Etrangères.

(No. 67.)

Note du Ministre Portugais à Londres au Comte Russell contre l'Annexion des Îles de l'Unhaca et des Eléphants à la Colonie du Natal, 22 Février, 1862.

(Traduction.)

Légation de Portugal, Londres, ce 22 Février, 1862.

Par une notification publiée officiellement le 25 Novembre, 1861, par le Gouverneur de la Colonie Anglaise du Cap de Bonne-Espérance, on sait que, "le 5 Novembre dernier, le drapeau Anglais a été arboré sur les îles de l'Unhaca (Inyack) et des Eléphants, toutes deux situées à Delagoa Bay (Baie de Lourenço Marques), les dites îles ayant été déclarées à partir de ce jour, possession de Sa Majesté Britannique, dépendant de la Colonie du Natal." (Document annexe.) Mais comme il est certain que les deux îles mentionnées, ainsi que toute la Baie de Lourenço Marques, ou Delagoa Bay, appartiennent depuis un temps immémorial au domaine de la Couronne de Portugal, et que le Gouvernement de Sa Majesté Britannique a reconnu explicitement et solennellement la Convention du 28 Juillet, 1817, acte international complémentaire du Traité du 22 Janvier, 1815, célébré entre les Souverains du Portugal et de la Grande Bretagne, et comme il devient évident que la prise de possession des deux îles susdites par le Gouverneur du Cap de Bonne-Espérance, sans le préalable consentement explicite et solennel de Sa Majesté Très-Fidèle et l'approbation des représentants de la nation Portugaise réunis aux Cortès, doit être considérée comme une violation du territoire Portugais : le Soussigné, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté Très-Fidèle, a reçu des ordres positifs de son Gouvernement pour porter les faits relatés à la connaissance de son Excellence M. le Comte Russell, Premier Secrétaire d'Etat de Sa Majesté Britannique au Ministère des Affaires Etrangères, et réclamer du Gouvernement de Sa Majesté Britannique la réparation exigée par les actes pratiqués ou ordonnés par le sus dit Gouverneur du Cap avec une notoire violation du droit des gens et des Traités en vigueur entre les Couronnes du Portugal et de la Grande Bretagne.

Le Soussigné ne peut douter un seul moment que le Gouvernement de Sa Majesté Britannique ne s'empresse de faire procéder à une enquête sur les faits allégués, et de réparer, autant que possible, les procédés inexplicables du Gouverneur du Cap de Bonne-Espérance, si manifestement contraire aux principes de justice et de droit fréquemment proclamés par le Gouvernement de Sa Majesté Britannique.

Le Soussigné, &c.

(Signé) LAVRADIO.

A son Excellence le Comte Russell,
&c. &c. &c.

(No. 68.)

Réponse à la Note antécédente, 28 Février, 1862.

(Traduction.)

M. le Ministre,

Foreign Office, ce 28 Février, 1862.

J'ai l'honneur d'accuser réception de votre note du 22 courant, dans laquelle vous avez envoyé au Gouvernement de Sa Majesté la protestation du Gouvernement de Sa Majesté Très-Fidèle contre la décision du Gouvernement de Sa Majesté concernant la prise de possession des Îles de l'Unhaca et des Eléphants.

Je vous fais savoir, en réponse, que le Ministre de Sa Majesté à Lisbonne recevra des instructions pour communiquer au Gouvernement Portugais la réponse du Gouvernement de Sa Majesté à votre communication.

J'ai, &c.
(Signé) RUSSELL

A M. le Comte de Lavradio.

Dépêche du Ministre Portugais à Londres rendant Compte de la Conférence avec Lord Russell sur l'Annexion des Iles de l'Unhaca et des Eléphants, 25 Février, 1862.

(Traduction.)

Excellence,

Légation de Sa Majesté Très-Fidèle à Londres, ce 25 Février, 1862.

J'ai déjà eu l'honneur d'accuser réception de la dépêche réservée, que votre Excellence m'a adressée le 6 courant.

Pour exécuter dûment les ordres de Sa Majesté que votre Excellence m'a transmis dans cette dépêche, relativement à la réclamation contre la prise de possession par le Gouverneur du Cap de Bonne-Espérance des Iles de Inyack ou Unhaca et des Eléphants, situées dans la Baie de Lourenço Marques, j'ai adressé au Secrétaire d'Etat des Affaires Etrangères une note datée du 22 courant, dont j'ai l'honneur d'envoyer copie à votre Excellence, espérant qu'elle méritera l'approbation de Sa Majesté et de son Gouvernement.

Avant de remettre ma note, j'ai cru cependant convenable de donner et de demander quelques explications verbales à Lord Russell, qui m'a reçu à cet effet le 21 courant. Voici la substance de ce qui s'est passé dans cette conférence.

J'ai commencé par la narration des faits, extraite de la dépêche du Commissaire Portugais résidant au Cap et de la notification même du Gouverneur Britannique du Cap.

Mon récit terminé, je dis à Lord Russell que les droits de la Couronne de Portugal sur les deux îles mentionnées, ainsi que sur toute la Baie de Lourenço Marques étant incontestables et reconnus solennellement par le Gouvernement Britannique, le Gouvernement de Sa Majesté Très-Fidèle était bien sûr qu'en prenant possession de ces îles, le Gouverneur du Cap avait agi de son propre mouvement, et non sur les ordres de son Gouvernement dont il n'est pas permis de mettre en doute la loyauté et le respect de l'inviolabilité du territoire d'une Puissance qui est son alliée si intime; et que, par conséquent, mon Gouvernement était persuadé que celui de Sa Majesté Britannique s'empresserait de réparer d'une manière convenable les procédés inexplicables du Gouverneur du Cap.

Je m'arrêtai en cet endroit et Lord Russell, après quelques moments d'hésitation, me répondit, à voix un peu basse, ce qui suit: "Non, le Gouverneur du Cap n'a pas agi de son propre mouvement, mais bien d'après les ordres du Gouvernement de Sa Majesté Britannique."

Plein d'une juste indignation, j'interrompis le Secrétaire d'Etat le priant de s'expliquer d'une voix plus claire, attendu que je n'avais pas bien compris sa déclaration. Alors, Lord Russell élevant la voix, répéta sa déclaration et continua ainsi: "Nous avons un Traité avec le Portugal pour l'abolition du trafic des esclaves, et quoique le Gouvernement Portugais veuille l'observer, il n'a pas assez de force pour le faire, ni pour empêcher que les sujets Portugais se livrent à ce trafic infâme et excitent les peuples des territoires de l'intérieur, que les Portugais disent leur appartenir, à fournir des esclaves pour la traite, qui a lieu principalement avec l'île de Cuba. Ceci établi, le Gouvernement de Sa Majesté Britannique a jugé que les îles de Inyack et des Eléphants lui étaient nécessaires pour l'exécution de son Traité avec le Portugal."

Lord Russell fit, après une longue hésitation, quelques autres observations, mais tellement confuses que je ne les compris, pas ce qui d'ailleurs ne m'était pas nécessaire, la première déclaration étant plus que suffisante pour que je pusse apprécier les intentions du Gouvernement Britannique et du Secrétaire d'Etat.

Je continuai en disant à Lord Russell: "Qu'après la déclaration inqualifiable qu'il venait de me faire, je commencerais par lui demander s'il considérait le Portugal comme une nation indépendante ou comme une conquête d'Angleterre? Que je ne pouvais admettre que l'indépendance du Portugal fût mise en doute, et que par conséquent, j'exigeais qu'il me dit de quel droit le Gouvernement Britannique avait non-seulement fait violer le territoire Portugais, mais encore en avait annexé une partie (quoique petite) aux possessions Anglaises, sans respect pour le droit des gens, ni pour les Traités en vigueur? Que lors même que le Gouvernement Britannique crût avoir quelque droit sur ces îles, ce qui ne pouvait être d'après la Convention de 1817, il aurait dû entreprendre une négociation pour cela, mais non pratiquer une usurpation. Mais que, au contraire, le Gouvernement Britannique avait voulu dans ce cas, comme dans celui de l'annexion de Boulama, contre laquelle je protestai de nouveau, joindre l'humiliation à la violence. Le Gouvernement Britannique sait que le Portugal, à cause de sa situation géographique et pour d'autres raisons bien connues, est un Etat isolé, qui n'a d'autre alliance que celle de l'Angleterre; cette nation abuse de ces circonstances et de sa force et croyant que nous ne ferons pas même savoir au monde civilisé les résultats de cette alliance oppressive, elle exerce sur nous une véritable tyrannie, dont je ne trouve aucun exemple dans l'histoire des nations.

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"Quant à la nécessité de l'annexion des deux îles mentionnées pour éviter la traite, j'ai déclaré que je ne l'admettais point, quand même je renoncerais à soutenir la question de droit, ce à quoi je ne renonce en aucune manière. Que le Gouvernement Britannique, au lieu de violer les droits du Portugal pour s'opposer à la traite, devait augmenter le nombre de ses croiseurs et venir ainsi en aide aux efforts du Gouvernement Portugais. Qu'il était aussi de mon devoir de lui demander jusqu'où il croyait que le Gouvernement Britannique aurait le droit d'étendre ses annexions dans l'Afrique Portugaise pour mettre un terme à la traite. Que puisque le Gouvernement Britannique n'avait aucun égard pour le droit, il devait, pour être logique, s'annexer toute l'Afrique Portugaise."

Je ne pus alors m'empêcher de dire à Lord Russell sur le ton de la plus violente indignation:

"Au moins, soyez francs, et dites clairement: Nous voulons les Colonies Portugaises, et nous avons des forces plus que suffisantes pour nous en emparer."

Quant aux observations qu'il me fit sur ce que la traite des noirs était faite par des Portugais, je répondis:

"Je ne doute pas qu'il y ait malheureusement des Portugais qui s'emploient à ce trafic, mais le nombre des Anglais qui s'y livrent et qui vivent de ses produits est encore plus considérable."

Je défendis les Gouverneurs d'Angola et de Mozambique, dont la probité est notoire, et j'observai à Lord Russell qu'il était étrange que, puisqu'il se plaignait de ce que le trafic continuât, il n'eût adressé aucune réclamation à cet égard, et qu'il ne m'eût pas même envoyé de certaines informations qu'il m'avait promises depuis longtemps.

Lord Russell m'écouta avec une grande impatience, et, sans répondre à aucun de mes arguments de droit, il m'interrompit à différentes reprises pour me dire : " Nous avons un Traité, ainsi que le droit et le devoir de le faire observer. Et, enfin, écrivez-moi, et je vous répondrai."

En prenant congé de Lord Russell, je lui dis que : " Quoique sa déclaration eût été claire et explicite, je n'en ferais pas mention dans la première note que j'allais lui adresser, espérant que le Gouvernement Britannique, dans l'intérêt de son honneur, reviendrait sur sa première résolution ; et que, par conséquent, je me bornerais, dans ma première communication, à l'exposition des actes pratiqués par ordre du Gouverneur du Cap, et à la réclamation de leur réparation."

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Ne serait-il pas convenable que le Ministre de Sa Majesté près la Cour de Paris informât le Gouvernement Français des actes arbitraires pratiqués dans ces parages par le Gouvernement Anglais contre les droits de la Couronne de Portugal ?

Dieu garde, &c.
(Signé) COMTE DE LAVRADIO.

A son Excellence Antonio José d'Avila.

(No. 70.)

Réponse de Sir Arthur Mageris, Ministre d'Angleterre à Lisbonne, à la Note du Ministre Portugais à Londres, sur la Possession de l'Unhaca, 18 Mars, 1862.

(Traduction.)

M. le Ministre,

Lisbonne, ce 18 Mars, 1862.

Le Comte de Lavradio, Ministre de Sa Majesté Très-Fidèle près la Cour de Saint-James, a adressé au Comte Russell, Premier Secrétaire d'Etat de Sa Majesté au Ministère des Affaires Etrangères, une note datée du 22 du mois dernier et contenant une protestation du Gouvernement Portugais contre l'occupation de l'Île de l'Unhaca par les forces navales de Sa Majesté, comme violation du territoire Portugais, et présentant une réclamation en dommages-intérêts. J'ai reçu de son Excellence des instructions pour communiquer à votre Excellence, en réponse à cette note, qu'après un examen attentif et minutieux de cette affaire, le Gouvernement de Sa Majesté est d'avis que le Gouvernement Portugais n'a droit à aucun territoire au sud de Lourenço Marques, et que la partie sud de la Baie de Delagoa (où l'Île de l'Unhaca et la petite île adjacente indiquée sur les cartes sous le nom d'îles des Eléphants, ont été toutes deux prises premièrement par le Capitaine Bickford, du navire de Sa Majesté "Narcissus," le 5 Novembre dernier et annexées depuis cette date à la Colonie Britannique de Natal) a été complètement et légalement cédée à la Couronne Britannique et que le Gouvernement de Sa Majesté doit par conséquent adhérer aux idées du Comte Dudley émises dans sa note du 5 Décembre, 1827, adressée au Marquis de Palmella, autant en ce qui concerne les limites du territoire Portugais qu'à l'égard des droits Britanniques.

Le territoire possédé par le Portugal sur la côte orientale d'Afrique est ainsi défini par l'Article II du Traité conclu en 1817 entre la Grande-Bretagne et le Portugal : " Les territoires possédés par la Couronne de Portugal au sud de l'équateur, c'est-à-dire, sur la côte orientale d'Afrique, les territoires entre le Cap Delgado et la Baie de Lourenço Marques ;" et le seul motif de controverse qu'il puisse y avoir à l'égard des limites de la ligne de la côte spécifiée dans l'Article cité est, si la Baie de Lourenço Marques est la baie située vis-à-vis de l'établissement Portugais à l'embouchure du fleuve du même nom (qui s'appelle aussi Dundas ou fleuve Anglais) comme le Gouvernement de Sa Majesté le croit, ou si elle embrasse toute la Baie de Delagoa, comme le Gouvernement Portugais le prétend, ce qui étendrait le territoire Portugais de quelques milles au sud de ses établissements, dans la partie la plus méridionale et sur des territoires où il n'a jamais eu ni souveraineté ni possession.

Je dois observer en premier lieu, que la primitive factorerie Portugaise était située sur la rive gauche ou rive nord de Lourenço Marques et que, quoique après sa destruction par quelques croiseurs Français, elle ait été transportée sur la rive sud, dans le territoire de Tembe, il n'en est pas moins vrai qu'ils (les Portugais) payaient un présent annuel comme bail emphytéotique pour le terrain qu'ils occupaient, au Roi Keppel, qui ne leur a jamais admis de droit sans son consentement.

Il est clair que si le Gouvernement Portugais avait supposé, à l'époque de la construction de cette factorerie, qu'il avait droit à la rive sud de Lourenço Marques, il aurait établi sa factorerie sur cette rive, ce qui lui aurait donné la domination d'un fleuve qu'on dit navigable sur un parcours de près de deux cents milles vers l'intérieur.

Il est vrai qu'en 1827, le Marquis de Palmella, dans sa correspondance avec Lord Dudley sur cette affaire, a tâché d'établir le droit de la Couronne Portugaise aux territoires de Tembe et de Mapouto au sud de Lourenço Marques ; mais Lord Dudley a déclaré, dans sa réponse, qu'il ne pouvait admettre que le Marquis de Palmella eût présenté la plus légère preuve pour appuyer la réclamation du Gouvernement Portugais à un pouvoir inaliénable sur le territoire des Chefs de Mapouto, et que le Gouvernement de Sa Majesté considérait que les Portugais n'avaient d'établissement de quelque nature que ce fût et n'en eurent jamais à Mapouto ou sur quelque point un peu au sud, comme Mapouto ; et relativement au Traité de 1817, son Excellence a observé que l'Article II du Traité en lui donnant la plus grande latitude d'expression, devait comprendre tout le territoire entre le Cap Delgado et la Baie de Lourenço Marques, mais qu'on ne pouvait jamais y comprendre le territoire de ces points inclusivement.

Sur ces bases, le Gouvernement de Sa Majesté est, par conséquent, d'opinion que le fleuve de

Lourenço Marques est et doit être considéré comme la limite sud des territoires Portugais sur la côte de l'Afrique Orientale, et il le considère comme tel.

Au mois de Mars 1873, le Capitaine Owen, de la Marine Britannique, a conclu avec le Roi Tembe un Traité, en vertu duquel celui-ci a cédé les territoires de Tembe et ses dépendances à la Couronne Britannique, et, au mois d'Août suivant, le même officier a célébré avec le Roi de Mapouto un Traité par lequel ce Souverain a mis ses territoires sous la protection de la Couronne Britannique.

Par conséquent, le Gouvernement de Sa Majesté a agi dans le but de maintenir ses droits légaux dans les mesures qu'il a prises et qu'il lui a paru devoir prendre en ce qui concerne l'Unhaca, et il ne peut admettre que le Gouvernement Portugais ait aucun fondement pour protester ou pour exiger la réparation qu'il a demandée par l'entremise de son Ministre à Londres.

Enfin, je dois ajouter que, dans la manière dont le Gouvernement de Sa Majesté a agi dans cette affaire, il a été guidé principalement par le désir d'encourager tout commerce licite et légal dans la Baie de Lourenço Marques et d'arrêter les négriers qui faisaient jusqu'à présent ce trafic avec impunité dans les contrées adjacentes appartenant au Portugal, car, quoique j'aie déclaré à différentes reprises, dans ma correspondance officielle avec le Ministère confié à votre Excellence, que le Gouvernement de Sa Majesté était persuadé que le Gouvernement Portugais agissait de bonne foi dans ses efforts pour la suppression de la traite de nègres, il n'en est pas moins du devoir du Gouvernement de Sa Majesté de prendre toutes les mesures qui sont à sa portée, pour réprimer des actes qui malheureusement sont encore pratiqués par des sujets du Portugal avec la connivence apparente des autorités locales qui violent manifestement les compromis et la prudence de leur propre Gouvernement.

Je profite, &c.

(Signé) ARTHUR C. MAGENIS.¹

A son Excellence le Marquis de Loulé.

(No. 71.)

Dépêche du Consul Portugais au Cap, faisant part des bruits concernant un Ordre du Gouvernement Anglais pour faire prendre possession du Tembe et du Mapouto, 4 Avril, 1869.

(Traduction.)

Excellence,

Consulat-Général de Portugal au Cap, ce 4 Avril, 1869.

En continuation de ma dépêche du 19 de ce mois, j'ai l'honneur de communiquer à votre Excellence qu'ayant soupçonné que le vapeur de guerre Anglais "Peterel" était revenu *très-mystérieusement* de East London, port de la Cafrerie, à notre baie de Lourenço Marques dans un autre but que celui d'y croiser, j'ai pris la résolution de partir aussitôt, pour Simon's Bay, afin de savoir des autorités navales la vérité sur ce voyage mystérieux. Après de nombreuses difficultés, j'ai pu apprendre d'un officier de la marine Anglaise que les ordres avaient été envoyés, en effet, de l'Amirauté de Londres, au commodore de cette station navale, afin qu'il fit partir au plus tôt un vapeur avec des instructions au commandant pour *prendre formellement possession* de terres de Tembe et Mapouto, dans la partie sud de cette baie, et pour y planter le drapeau Anglais, en vertu de la cession que les régules ont faite de ces terres au Gouvernement Anglais, par le Traité conclu en 1823 avec le Capitaine Owen.

Le droit de possession sur toute la baie de Lourenço Marques appartient incontestablement au Portugal, et la Grande Bretagne l'a ainsi reconnu par l'Article II du Traité du 28 Juillet, 1817; c'est pourquoi, aussitôt que *j'aurai la nouvelle officielle*, je ne manquerai pas de protester formellement, comme représentant de Sa Majesté le Roi dans cette Colonie.

Je ne sais quels nouveaux arguments le Gouvernement Anglais présentera maintenant pour expliquer un semblable attentat, car, je vois, dans les dépêches et la correspondance du Duc de Palmella, lorsqu'il était Ambassadeur à Londres, qu'il avait détruit complètement les arguments du Ministère Anglais, à l'occasion de la visite et du Traité du Capitaine Owen dans la même baie en 1823.

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Dieu garde, &c.

(Signé) A. DUPRAT.¹

Son Excellence le Marquis de Sá da Bandeira,
Ministre et Secrétaire d'Etat des Affaires Etrangères.

(No. 72.)

Note adressée à Lord Clarendon par M. de Figanière e Morão, Chargé d'Affaires de Portugal, à l'égard de la Prise de Possession et de l'Annexion des Iles de l'Unhaca et des Eléphants à la Colonie du Natal, 14 Juin, 1869.

(Traduction.)

Le Gouvernement de Sa Majesté fut instruit par des informations dernièrement reçues, que le commandant des forces navales de la Grande Bretagne, en station au Cap de Bonne Espérance, avait reçu l'ordre de son Gouvernement de prendre formellement possession des terres de Catembe (Temby) et de Mapouto (Mapoota) situées du côté sud de la Baie de Lourenço Marques, et que l'ordre donné avait pour base les soi-disants Traités faits en Mars et Novembre de l'année 1823, par le Capitaine Owen, de la Marine Royale Anglaise, avec les régules de ces terres.

¹ Archives du Ministère des Affaires Etrangères.

Les droits de la Couronne Portugaise sur tous les territoires que baignent les eaux de la Baie du Lourenço Marques (Delagoa Bay des cartes Anglaises), sont incontestables, et c'est ainsi qu'ils ont été explicitement et solennellement reconnus par la Grande Bretagne dans l'Article 2 de la Convention du 28 Juillet, 1817.

Le conflit qui s'éleva à ce sujet en 1826 entre les deux Gouvernements, fut suspendu, en 1828, par suite de la guerre civile qui éclata pendant cette année en Portugal.

Ce conflit fut soulevé par l'acte de violence du dit Capitaine Owen, qui s'empara, de force, du navire "Eléonora," légalement séquestré par les autorités Portugaises dans le port de Lourenço Marques, comme prévenu du délit de contrebande.

Mr. Canning, alors Premier Secrétaire d'Etat de Sa Majesté Britannique au Ministère des Affaires Etrangères, donna à entendre, par sa réponse en date du 25 Avril, 1827, à la réclamation présentée par l'Ambassadeur Portugais, que le Capitaine Owen avait prétendu justifier ses actes en alléguant le doute où il était que le territoire de Mapouto, où ce navire avait été saisi par lui, appartient à la Couronne Portugaise, en conséquence de quoi le même Mr. Canning demandait des informations à l'égard des bases sur lesquelles s'appuyaient les droits du Portugal sur le territoire en question.

L'Ambassadeur de Portugal qui, à cette époque, était le Duc de Palmella, mort depuis, déclara, dans sa note du 23 Mai, 1827, à Lord Dudley, successeur de Mr. Canning, que les droits de la Couronne Portugaise étaient fondés :

1. Sur l'incontestable priorité de la découverte de cette côte Africaine, dès les premiers voyages des Portugais aux Indes.

2. Sur l'établissement de factoreries Portugaises fondées sur ce point et défendues par le fort de Lourenço Marques, occupé par une garnison détachée de l'armée de la Province de Mozambique.

3. Sur les conventions et les actes de reconnaissance continuellement renouvelés depuis des siècles par les chefs des naturels qui peuplaient cette côte, et qui avaient toujours reconnu la souveraineté de la Couronne de Portugal.

4. Sur l'admission non interrompue de ces droits constamment respectés par les Gouvernements de l'Europe, comme le prouve le simple examen des cartes géographiques.

5. Enfin, sur l'Article 2 déjà cité de la Convention du 28 Juillet, 1817, dans laquelle se trouve la preuve de l'adhésion explicite et formelle du Gouvernement Anglais lui-même aux droits du Portugal sur la souveraineté de tous les territoires de la côte de l'Afrique Orientale, compris entre le Cap Delgado et la Baie de Lourenço Marques.

Il paraît que le dit Capitaine Owen, ignorant l'existence de cette Convention, profita de son séjour dans la Baie de Lourenço Marques pour entraîner les Chefs des territoires de Catembe et de Mapouto à signer les prétendus contrats de 1823, par lesquels ces règles se trouvaient placés sous la protection de la Grande Bretagne.

Toutefois, l'Ambassadeur de Portugal détruisit l'importance de ces contrats subreptices en plaçant sous les yeux des Ministres de Sa Majesté Britannique les preuves les plus indiscutables des rapports de souveraineté existant entre le Portugal et les Chefs susnommés, en y comprenant la déclaration signée par le régule même de Mapouto à la date du 8 Octobre, 1823, déclaration postérieure à ces prétendus Traités, et par laquelle ce régule exprime "ne reconnaître d'autres maîtres de ces terres que les Portugais, et n'avoir jamais eu l'intention de les donner à Sa Majesté Britannique, ce qui d'ailleurs lui eût été impossible puisqu'elles appartenaient au Roi de Portugal."

Lord Dudley ne pouvant réfuter les arguments sur lesquels s'appuyait l'Ambassadeur de Portugal, voulut néanmoins soutenir, dans sa note du 5 Décembre, 1827, relativement aux possessions désignées à l'Article 2 de la dite Convention, que l'on devait entendre que ces possessions s'étendaient entre le Cap Delgado et la Baie de Lourenço Marques, mais que ces territoires n'y étaient pas compris *inclusivement*.

L'Ambassadeur de Portugal, dans sa note du 22 Mai, 1828, redressant l'erreur de cette interprétation, prouva encore victorieusement qu'à l'égard du Cap Delgado, il ne pouvait y avoir discussion, attendu que c'était le point déterminé où commençaient les possessions Portugaises, et qu'à l'égard de la Baie de Lourenço Marques, en disant que ces possessions se terminaient dans cet endroit au sud, on n'avait jamais pu imaginer le terme *exclusivement*, puisqu'il était incontestable que, depuis *plusieurs siècles*, la Couronne Portugaise possédait des établissements considérables dans l'enceinte de cette baie, qu'il était ainsi indéniable que l'on devait comprendre la parole *inclusivement*, et qu'aucun juge impartial auquel serait soumise l'interprétation du dit Article II ne pourrait hésiter à prononcer que la Baie de Lourenço Marques appartenait tout entière aux Portugais, puisque d'autres limites n'ayant pas été indiquées, cette baie devait être considérée comme comprise dans les territoires soumis à la souveraineté Portugaise.

James Horsburgh, écrivain Anglais, parle lui-même, à la page 44 de son itinéraire bien connu sous le titre de "India Directories, or directions for sailing to and from the East India," des ruines de l'ancienne fortification Portugaise placée sur la côte méridionale de cette même baie. Le témoignage d'un écrivain aussi digne de foi ne peut être suspect au Gouvernement Britannique, et il est au moins étrange que le Capitaine Owen ne connût pas cette circonstance quand il voulut contester au Portugal la possession de cette baie.

C'est en cette situation que la question est demeurée, le Gouvernement Anglais n'ayant jamais répondu à la note diplomatique du 22 Mai, 1828, qui constituait la réplique de l'Ambassadeur Portugais à la dernière réponse de Lord Dudley.

Ce même Gouvernement Anglais, après un silence de trente-trois années écoulées depuis cette note du 22 Mai, 1828, silence qui ne pouvait se traduire que par l'impuissance où il était de combattre les arguments présentés en preuve de notre droit à la possession de toute la Baie de Lourenço Marques, prit la résolution, au mois de Novembre 1861, de s'emparer des îles de l'Unhaca et des Eléphants que baignent les eaux de cette baie, et ordonna, huit ans plus tard, contre tous les principes du droit des gens, la prise de possession des territoires de Catembe et de Mapouto.

Admettant même (ce qui n'est pas) que les droits de la Couronne Portugaise sur les territoires désignés par la Convention du 28 Juillet, 1817, pussent être mis en doute, il est indéniable que le Gouvernement Anglais n'a aucun droit d'interpréter, *seul*, et de trancher en sa faveur un article qu'il déclare douteux dans sa signification, et il a d'autant moins raison de le faire, que cette Convention n'a pas créé des droits qui existaient déjà avant elle.

Il devient donc évident que la prise de possession de ces territoires par le Gouvernement Anglais sans le préalable et formel consentement du Gouvernement de Sa Majesté Très Fidèle doit être considérée comme une violation du territoire Portugais.

Le Soussigné, Chargé d'Affaires du Portugal, vient, en vertu des instructions reçues de son Gouvernement, exposer cette situation à Lord Clarendon, Premier Secrétaire d'Etat de Sa Majesté Britannique au Ministère des Affaires Etrangères, et faire appel à la bonne foi du Gouvernement Anglais et aux sentiments d'amitié qui, heureusement, unissent les deux nations, afin que ce différend soit vidé, non par la violence, mais au moyen d'une négociation préalablement et convenablement discutée.

(Signé) **FREDERICO FRANCISCO DE FIGANIERE E MORAO.**

(No. 73.)

Réponse du Gouvernement Anglais à la Note du Chargé d'Affaires de Portugal, 27 Août, 1869.

(Traduction.)

Monsieur,

Ministère des Affaires Etrangères, ce 27 Août, 1869.

Au sujet de ma note du 29 Juin dernier, j'ai l'honneur de porter à votre connaissance que j'ai pris des informations, au Ministère des Colonies et au Bureau de l'Amirauté, à l'égard de la nouvelle qui est parvenue au Gouvernement Portugais, de ce que le commandant des forces navales Anglaises stationnées au Cap de Bonne Espérance avait reçu l'ordre de prendre formellement possession des terres de Catembe (Temby) et de Mapouta (Mapoota), situées du côté sud de la Baie de Lourenço Marques ; permettez-moi de vous apprendre que de telles instructions n'ont pas été données par le Gouvernement de Sa Majesté ou par les autorités Anglaises de la station du Cap. Le rapport auquel vous faites allusion est né probablement de ce qu'un des navires de Sa Majesté a été envoyé à Delagoa Bay dans le but de découvrir la vérité au sujet de certaines rumeurs, qui sont parvenues aux autorités du Cap, et qui faisaient croire que certains agents de la République du Transvaal avaient établi des ports sur les côtes de cette baie. Dans ces circonstances, je ne crois pas nécessaire d'entrer en discussion sur le droit de souveraineté ayant rapport aux territoires en question.

J'ai, &c.

(En l'absence du Comte de Clarendon),

(Signé) **ARTHUR OTWAY,**

M. Figanière e Morão.

(No. 74.)

Note du Ministre Anglais à Lisbonne au sujet de la Ligne de Limites établie par le Traité entre le Portugal et la République du Transvaal, 25 Avril, 1871.

(Traduction.)

M. le Ministre,

Légation Britannique, Lisbonne, ce 25 Avril, 1871.

Ce n'est que dernièrement qu'il est venu à ma connaissance que le Gouvernement Portugais est sur le point de conclure un Traité avec celui de la République du Transvaal, dans le sud-est de l'Afrique. D'après une des clauses de ce Traité, j'ai des raisons pour croire que le Gouvernement Portugais a compris dans son territoire certains districts sur lesquels il prétend avoir des droits qui ont toujours été, depuis de longues années, formellement niés par le Gouvernement Britannique. Je pense qu'on ne peut guère douter (du moins d'après toutes les cartes dont j'ai eu connaissance) que la ligne Portugaise de limites établie dans la seconde clause de l'Article XXIII du dit Traité, c'est-à-dire, une ligne tirée à partir d'un point situé sous le 26° 30' de latitude sud en ligne droite vers l'ouest, embrasserait la partie sud de Delagoa Bay, y compris l'Île d'Inyack et le district du continent qui y est parallèle. Je ne devrais pas avoir besoin de rappeler à votre Excellence, après la correspondance officielle qui a eu lieu à cet égard à diverses époques depuis 1827, que le Gouvernement de sa Majesté Britannique n'a jamais admis la correction de la construction employée par celui du Portugal sur le Traité de 1817 à l'égard de la ligne de limites qui y est établie. Les vues du Gouvernement Britannique furent déclarées distinctement au Marquis de Palmella dans une note du Comte Dudley, datée du 5 Décembre, 1827 ; et le Gouvernement de Sa Majesté a uniformément confirmé ces vues chaque fois que la question a été soulevée. Je dois encore prier votre Excellence d'en référer à la note adressée par le Ministre Anglais près cette Cour, Sir A. Magenis, le 18 Mars, 1862, au Marquis de Loulé sur ce même objet, et à laquelle je ne trouve point réponse dans les archives de cette Mission. A des dates plus récentes et surtout au mois d'Août 1870, devant M. Carlos Bento da Silva, et en Février devant votre Excellence, j'ai dû protester de la part du Gouvernement de Sa Majesté contre l'acte insoutenable du Gouverneur de Mozambique, qui a fait occuper l'Île d'Inyack par des troupes Portugaises, et je suis heureux de pouvoir ajouter que j'ai reçu en réponse, autant de votre prédécesseur que de vous-même, l'assurance que de. instructions avaient été envoyées de Lisbonne, ordonnant l'évacuation immédiate de l'île par les troupes Portugaises. Depuis lors, j'ai certainement entendu parler d'un projet de Traité comprenant des articles de délimitation entre le Gouvernement de Portugal et la République du Transvaal ; mais comme l'Article final contient la clause que le Traité, pour être valable, doit être approuvé et ratifié par Sa

Majesté Très-Fidèle, et que les ratifications doivent en être échangées dans un an à compter de la date de la conclusion, c'est-à-dire, le 29 Juillet, 1870, ou auparavant, je présumais que le Gouvernement actuel avait refusé de l'adopter et de le ratifier; mais comme j'apprends maintenant qu'il a été présenté aux Chambres, et approuvé par elles en séance secrète, il est de mon devoir d'informer votre Excellence que si, comme je le crains, les Articles du Traité relatifs aux frontières, embrassent quelques portions de possessions territoriales, baie, rivage, ou territoire, que le Gouvernement de Sa Majesté Britannique ait déclaré officiellement, distinctement, et uniformément qu'il ne peut admettre, et qu'il n'admet pas comme formant légalement partie des possessions de la Couronne de Portugal, je suis sûr que je ne fais que devancer les instructions que je recevrai du Gouvernement de Sa Majesté en faisant mon protêt formel, contre toute stipulation du dit Traité à l'égard des frontières, qui puisse empiéter sur le droit de la Couronne Britannique à la partie sud de Delagoa Bay et au territoire adjacent.

Je profite, &c.

(Signé) CH. A. MURRAY.

(No. 75.)

Note du Chargé d'Affaires d'Angleterre au Gouvernement Portugais demandant réponse à la Note du 25 Avril contenant la protestation contre le Traité avec le Transvaal, 24 Mai, 1871.

(Traduction.)

M. le Ministre,

Légation de Sa Majesté Britannique, Lisbonne, ce 24 Mai, 1871.

J'ai l'honneur d'appeler l'attention de votre Excellence sur une communication qui lui a été adressée par Sir Charles Murray, le 25 Avril dernier, contenant une protestation formelle contre de certaines stipulations de frontières, contenues dans un Traité qui est près d'être conclu entre le Gouvernement du Portugal et la République du Transvaal, ainsi que sur une note adressée à votre Excellence sur le même sujet, le 26 du mois dernier, selon les instructions du Gouvernement de Sa Majesté.

Aucune réponse à ces notes n'ayant été reçue dans cette Légation de Sa Majesté pendant le mois passé, j'ai l'honneur de demander à votre Excellence de vouloir bien m'accorder la faveur d'une réponse pour l'information du Gouvernement de Sa Majesté.

Je profite, &c.

(Signé) WILLIAM DORIA.

(No. 76.)

Réponse du Gouvernement Portugais à la Note Précédente, 3 Juillet, 1871.

(Traduction.)

J'ai eu l'honneur de recevoir la note que vous m'avez adressée, en date du 24 Mai dernier, appelant mon attention sur l'objet des deux notes que Sir Charles A. Murray m'avait fait parvenir, datées du 25 et du 26 Avril précédent, et demandant une réponse pour la transmettre au Gouvernement de Sa Majesté Britannique.

Dans la première des notes citées, Sir Charles Murray combat le droit du Portugal à une partie du territoire compris dans les limites fixées par l'Article XXIII du Traité de Paix, d'Amitié et de Commerce fait entre le Portugal et la République de l'Afrique Australe, conclu et signé à Pretoria le 29 Juillet, 1869, attendu qu'il embrasse la partie sud de la Baie de Lourenço Marques (Delagoa Bay des cartes Anglaises) et l'Île de l'Unhaca (Inyack), que le Gouvernement de Sa Majesté Britannique (on l'affirme dans la dite note), n'a jamais reconnu et ne veut pas reconnaître comme appartenant à la Couronne de Portugal.

Sir Charles Murray proteste, dans la même note, contre toute fixation de limites en opposition aux droits que la Grande Bretagne croit avoir sur cette partie de la Baie de Lourenço Marques et sur le territoire adjacent, et se rapporte à la note de Lord Dudley du 5 Décembre, 1827, adressée à l'Ambassadeur de Portugal à Londres, le Duc (alors Marquis) de Palmella.

Je dois vous dire à cet égard, que le même Ambassadeur n'a pas manqué de répliquer, comme il le devait, à la note de Lord Dudley, en combattant l'interprétation erronée que le Gouvernement Britannique prétendait donner à l'Article II de la Convention du 28 Juillet, 1817, en vertu duquel Article le même Gouvernement avait déjà reconnu explicitement et solennellement le droit de la Couronne de Portugal à tous les territoires baignés par les eaux de la Baie de Lourenço Marques.

Lord Dudley soutenait, à l'égard des possessions désignées dans l'Article cité, qu'on devait entendre qu'elles s'étendaient entre le Cap Delgado et la Baie de Lourenço Marques, mais que l'Article ne comprenait pas ces territoires *inclusivement*.

L'Ambassadeur de Portugal a démontré toutefois dans sa note du 22 Mai, 1828, adressée à ce Ministre, que puisque d'après l'Article mentionné, la Couronne de Portugal possède sur la côte orientale d'Afrique le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques, on ne pourrait jamais entendre en *exclure* toute cette baie, ayant surtout égard à ce que la Couronne de ce Royaume y possède au sud des établissements depuis plusieurs siècles, ainsi que cela est notoire.

La question entre les deux Gouvernements a été soulevée par l'acte pratiqué le 28 Août, 1825, par le Capitaine Owen, qui s'est emparé de force du navire Anglais "Eleonor," légalement saisi par ordre des autorités Portugaises dans le port Lourenço Marques, comme impliqué dans un délit de contrebande.

Mr. Canning, qui était alors Premier Secrétaire d'Etat de Sa Majesté au Ministère des Affaires

Etrangères, a répondu à la note du 17 Juin, 1826, dans laquelle l'Ambassadeur de Portugal réclamait contre le procédé inouï du Capitaine Owen, en donnant à entendre, dans sa note du 25 Avril, 1827, que le Capitaine Owen avait prétendu justifier sa manière d'agir sur ce qu'il doutait que le territoire de *Mapouto*, où ce navire avait été capturé, appartint à la Couronne de Portugal ; Mr. Canning disait avoir demandé des informations à l'égard des bases sur lesquelles reposait le droit de souveraineté de ce Royaume sur le territoire en question.

Dans sa note du 23 Mai, 1827, l'Ambassadeur de Portugal déclara à Lord Dudley, que le droit de la Couronne de Portugal se fondait :—

1. Sur la priorité incontestable de la découverte de cette côte Africaine depuis les premiers voyages des Portugais aux Indes.

2. Sur les factoreries Portugaises qui y ont été établies et défendues par la forteresse de la Baie de Lourenço Marques, où il y avait une garnison détachée de la force armée de la Province de Mozambique.

3. Sur les Conventions et les actes de reconnaissance successivement réitérés, depuis des siècles, par les Chefs des peuplades qui habitaient cette côte, et qui avaient toujours reconnu la souveraineté de la Couronne de Portugal.

4. Sur l'admission constante de ces droits par tous les Gouvernements de l'Europe, qui les avaient toujours respectés, ainsi que cela pouvait être vérifié par le simple examen des cartes géographiques.

5. Enfin, sur l'Article II, déjà cité, de la Convention du 28 Juillet, 1817, dans lequel on trouve la preuve de l'adhésion explicite et formelle du Gouvernement Britannique aux droits de souveraineté de la Couronne de Portugal sur tous les territoires de la côte de l'Afrique Orientale compris entre le Cap Delgado et la Baie de Lourenço Marques.

Il paraît que le Capitaine Owen, ignorant l'existence de cette Convention, a profité de son séjour dans la Baie de Lourenço Marques pour induire le régule de Catembe (Temby) et celui de Mapouto à signer les soi-disants Traités de 1823, par lesquels il les mettait sous la protection de la Grande Bretagne.

Mais dans sa note sus-mentionnée du 23 Mai, 1827, l'Ambassadeur de Portugal détruisit l'importance de ces Traités frauduleux, en présentant à Lord Dudley des documents incontestables et comprobatifs des relations de souveraineté existant entre le Portugal et les dits régules, y compris la protestation signée par le régule Mapouto lui-même, le 8 Octobre, 1823, quelques mois après la dite cession et dans laquelle il déclarait "qu'il ne reconnaissait que les Portugais comme maîtres de ces terres, qu'il n'avait jamais eu d'autre intention, et qu'il lui était impossible d'en faire donation à Sa Majesté Britannique, vu qu'elles appartenaient au Roi de Portugal."

La note de Lord Dudley, du 5 Décembre, 1827, déjà citée, n'a pu renverser les solides arguments sur lesquels l'Ambassadeur de Portugal se fondait ; et le Gouvernement de Sa Majesté Britannique n'a jamais répondu à la note du même Ambassadeur du 22 Mai, 1828, dont j'ai parlé plus haut, et qui a servi de réplique à celle de Lord Dudley.

Le même Gouvernement, laissant écouler trente-trois années sans répondre à cette note et faisant croire par son silence qu'il y étaient produits dans le but de soutenir notre droit sur toute la Baie de Lourenço Marques, a résolu cependant de s'emparer des Iles de l'Unhaca et des Eléphants, baignées par les eaux de cette baie.

En Novembre 1861 le Gouvernement de la Colonie du Cap de Bonne Espérance envoya le vapeur de guerre "*Narcissus*," avec ordre d'arborer le drapeau Anglais sur la pointe de l'Unhaca et sur l'Ile des Eléphants, déclarées possessions Britanniques et annexées à la Colonie du Natal.

Le Gouverneur du district de Lourenço Marques s'empessa de protester aussitôt contre un acte si attentatoire aux droits de la Couronne de Portugal, ainsi que le Gouverneur-Général de la province de Mozambique ; et le Ministre de Sa Majesté à Londres, le Comte de Lavradio, adressa la réclamation compétente à Lord John Russell dans sa note datée du 22 Février, 1862.

Or, en admettant même les droits de la Couronne de Portugal aux territoires désignés dans la Convention du 28 Juillet, 1817, ne fussent pas aussi indubitablement connus qu'ils le sont, on ne peut nier, comme le Chargé d'Affaires de Portugal à Londres l'avait déjà représenté à Lord Clarendon dans sa note du 4 Juin, 1869, que le Gouvernement de Sa Majesté Britannique n'a aucun droit d'interpréter, *seul*, un article dont il prétend mettre en doute le sens.

La désignation de la Baie de Lourenço Marques comme limite sud des domaines Portugais dans l'Afrique Orientale ne peut être prise que dans le sens d'*inclusivement*, de même que le Cap Delgado, limite nord, a toujours été entendu *inclusivement* par toutes les nations et par la Grande Bretagne elle-même.

L'acte le plus récent de cette reconnaissance est le Traité du 29 Juillet, 1869, avec la République de l'Afrique Australe, Traité déjà ratifié par le Portugal, et dans lequel la limite sud de notre territoire est fixée par une ligne droite tirée du 26° 30' de latitude sud.

Les limites fixées par le Président Pretorius dans sa Proclamation du 29 Avril, 1868, dont Sir Charles Murray fait mention dans sa seconde note du 26 Avril, à laquelle je répons, ont été annulées par la négociation de ce Traité. Le Plénipotentiaire Portugais, et tel était son devoir, n'a pas manqué de protester contre cette proclamation, par laquelle on prétendait annexer cette portion de territoire à la même République.

Le fait qui est allégué, et qui consiste en ce que le Gouvernement de Sa Majesté a fait évacuer dernièrement l'Ile de l'Unhaca, prouve la bonne foi du même Gouvernement et le désir qu'il a de maintenir le *statu quo* tant que le conflit ne sera pas définitivement résolu.

D'après ce qui vient d'être exposé, le Gouvernement de Sa Majesté attend avec toute confiance que vous ne manquerez pas de reconnaître, ainsi que votre Gouvernement, le droit de la Couronne de Portugal à la partie sud de la Baie de Lourenço Marques, et le peu de raison qu'on a pour mettre en doute ce même droit.

Je vous envoie à cette occasion un exemplaire du mémoire récemment publié par le Vicomte

de Paiva Manso sur la possession Portugaise de Lourenço Marques, et je renouvelle l'assurance de ma considération distinguée.

Ministère des Affaires Etrangères, ce 3 Juillet, 1871.

(No. 77.)

Note du Chargé d'Affaires d'Angleterre à Lisbonne sur la ligne de limites établie entre le Portugal et la République du Transvaal, 17 Juillet, 1871.

(Traduction.)

M. le Ministre,

Légation de Sa Majesté Britannique, Lisbonne, ce 17 Juillet, 1871.

J'ai l'honneur d'accuser réception à votre Excellence de sa note du 5 Juillet, que j'ai reçue le 6 courant, au sujet du Traité qui, ainsi que votre Excellence m'en donne information, a été ratifié par le Gouvernement Portugais avec la République du Transvaal, et relative également à la question de la ligne de frontières entre les possessions Anglaises et les possessions Portugaises dans la Baie Delagoa.

J'ai profité de la première occasion pour envoyer la communication de votre Excellence au Comte Granville, mais il m'est impossible de recevoir une réponse du Gouvernement de Sa Majesté à cette communication avant quelques jours encore, à cause du temps nécessaire à la transmission des lettres entre l'Angleterre et le Portugal.

J'ai reçu ce matin une dépêche du Comte Granville sur ce sujet, et il m'ordonne de savoir du Gouvernement Portugais quel est le titre en vertu duquel le Gouvernement de Sa Majesté Très-Fidèle réclame les frontières établies en détail dans la 2^e section de l'Article XXIII du Traité entre la République du Sud de l'Afrique et le Portugal, du 29 Juillet, 1869; et je suis en outre chargé de déclarer à votre Excellence que le Gouvernement de Sa Majesté ne reconnaît pas les droits de Portugal à un seul point de la côte orientale d'Afrique, au sud de l'ancienne factorerie de Lourenço Marques à l'embouchure de la Rivière Anglaise ("English River") à Delagoa Bay.

Je profite, &c.
(Signé) WM. DORIA.

(No. 78.)

Jugement Arbitral du Président des Etats-Unis, dans l'Affaire de l'Île de Boulama, entre le Portugal et l'Angleterre, 21 Avril, 1870.

Ulysses S. Grant, Président des Etats-Unis. A tous ceux à qui il appartiendra.

Les fonctions d'Arbitre ayant été conférées au Président des Etats-Unis en vertu du Protocole de la Conférence tenue à Lisbonne, au Ministère des Affaires Etrangères, le 31 Janvier, de l'an de Notre Seigneur 1868, entre le Ministre et Secrétaire d'Etat pour les Affaires Etrangères de Sa Majesté Très-Fidèle le Roi de Portugal, et l'Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté Britannique; et sur la résolution prise que les prétensions respectives des deux Gouvernements de leurs Majestés Très-Fidèle et Britannique à l'Île de Boulama sur la Côte Occidentale d'Afrique, et à une certaine portion de territoire en face de cet île, dans la terre ferme, seraient soumises à l'arbitrage du Président des Etats-Unis d'Amérique, pour juger ces prétentions en dernière instance, et sans appel;

Les mémoires écrits ou imprimés de chacune des deux parties, accompagnés des documents produits à l'appui, ayant été présentés à l'arbitre dans le délai de six mois de la date du dit Protocole, les copies de ces mémoires et documents ayant été communiquées réciproquement par les deux parties par leurs Ministres à Washington; et chacune des deux parties ayant, après cette communication, présenté encore à l'arbitre un second et définitif mémoire en réplique à celui de l'autre partie, et dont elles ont également fait communication réciproque, dans le délai de six mois de la date de la présentation du premier mémoire;

Comme aucune des deux parties n'exige la production d'aucun rapport ou document qui soit en la possession exclusive de l'autre, et dont on ait fait mention dans les mémoires soumis à l'arbitre; ni ne demande à se faire représenter par avocat ou agent sur quelque'un des points soumis à l'arbitrage;

Une personne nommée par l'arbitre, en conformité des termes du dit Protocole, ayant soigneusement étudié chacun des mémoires écrits ou imprimés présentés à l'arbitre, et les documents produits à l'appui, de même que les seconds et derniers mémoires:—

"Attendu qu'il est prouvé que l'Île de Boulama, et la dite portion de territoire en face ont été découvertes par un navigateur Portugais en 1446;" que bien avant l'année 1792 les Portugais avaient fait un établissement à Bissau, sur la Rivière de Geba, lequel a été maintenu dès lors dans la souveraineté Portugaise; qu'en 1609 ou à peu près, les Portugais avaient fait un autre établissement à Guinala dans le Rio Grande, lequel établissement constituait en 1778 un grand village habité seulement par des Portugais y vivant depuis longtemps de pères en fils, que la ligne de la côte de Bissau à Guinala, après avoir croisé la Rivière de Geba, embrasse toute la côte sur la terre ferme en face de l'Île de Boulama; que l'Île de Boulama est adjacente à la terre ferme, dont elle est si prochaine que des animaux peuvent se rendre d'un bord à l'autre à la marée basse; que le Portugal a fait en 1752 la réclamation formelle de l'Île de Boulama, et l'a toujours maintenue; que l'Île n'était pas habitée avant 1792, et n'était pas occupée, sauf quelques acres du côté du couchant exploités par une tribu indigène pour la récolte de végétaux; que le titre de l'Angleterre découle d'une prétendue cession des Chefs

indigènes en 1792, époque à laquelle la souveraineté du Portugal était déjà établie sur la terre ferme et sur l'île de *Boulama*; que le Gouvernement Portugaise n'a pas abandonné sa réclamation, et occupe à présent l'île avec un établissement Portugais d'environ sept cents personnes; que l'Angleterre a essayé dès 1792 de fortifier ses prétentions par d'autres concessions pareilles obtenues des Chefs indigènes; et que le Portugal n'a jamais accédé à aucun des actes pratiqués à l'appui du titre de l'Angleterre; et aucun autre éclaircissement ou document concernant quelque point contenu dans les mémoires, ainsi présentés à l'arbitre, n'étant nécessaire :

Moi, Ulysses S. Grant, Président des Etats Unis, je juge et décide que les prétentions du Gouvernement de Sa Majesté Très-Fidèle le Roi de Portugal à l'île de Boulama, sur la côte occidentale d'Afrique, et à une certaine portion de territoire en face de cette île sur la terre ferme, sont dûment prouvées et établies.

(L.S.) En témoignage de quoi j'ai signé de ma main, et j'ai fait apposer le sceau des Etats Unis.

Fait en triplicata dans la ville de Washington le 21 Avril de l'année de Notre Seigneur 1870, la 94^{ème} de l'Indépendance des Etats Unis d'Amérique.¹

Par le Président,
(Signé) U. S. GRANT.

(Signé) HAMILTON FISH, *Secrétaire d'Etat*.

(No. 79.)

Conditions du Vasselage de l'Empereur du Monomotapa à la Couronne Portugaise, 24 Mai, 1629.

(Traduction.)

Ce Royaume de Monomotapa est confié à l'Empereur, au nom du Roi de Portugal, notre maître, qui veut bien le reconnaître comme son vassal, et lui donner ce Royaume pris par ses sujets à cause des trahisons qu'il a commises contre Sa Majesté, manquant à la foi et à la parole donnée comme frère, tuant son Ambassadeur, et pillant et massacrant les marchands qui trafiquaient dans ses terres à l'abri de sa foi et de sa parole. L'Empereur reconnaîtra tous les Capitaines nommés Gouverneurs de la forteresse de Mozambique, ou leurs délégués.

Il permettra à tous les religieux, à quelque ordre qu'ils appartiennent, qui se rendront à son *zimbahé*, et dans toutes les autres terres de son Royaume, d'élever des églises, et à tous ceux qui voudront se faire Chrétiens de recevoir le baptême, sans que personne ne les contrarie, et il traitera les religieux comme des personnes sacrées à qui tout respect est dû.

Les Ambassadeurs qui viendront lui parler entreront dans son *zimbahé* couverts, les pieds chaussés, et avec leurs armes à la ceinture, comme s'ils étaient devant le Roi de Portugal; il leur donnera des sièges pour s'asseoir, et ils ne seront pas soumis au cérémonial du battement des mains; les autres Portugais lui parleront comme les Ambassadeurs et recevront une *machira* (natte) pour s'asseoir.

Il traitera respectueusement tous les Capitaines de Massapa, et leur donnera place aux *mamocuros* (assemblées) qu'il fera dans son Royaume, à l'occasion de la guerre ou d'autres événements; il prendra conseil avec eux, et ils pourront venir au *zimbahé* toutes les fois qu'ils le voudront, sans être obligés d'apporter des présents pour lui ou pour ses *motumes* (chefs); et on n'en donnera pas à ceux que le Roi enverra à la forteresse ou au Capitaine de Massapa; selon l'usage il fera donner à ce Capitaine de Massapa des terres, et la foire de Loaze lui cédera la terre qui a appartenu à Inhama Fufurano; et Beza de Mapundo et Pallalua de Chuabo restera avec lui dans son *zimbahé*.

Il respectera les Portugais qui parcourront ses terres pour faire le commerce sans qu'il leur soit rien demandé à titre de *quoces* (tribut), et les différends (*empofias*) qu'il y aura seront jugés devant le Capitaine de Massapa.

Il ne permettra pas que nos marchands, nos *meguogues*, ou nos cafres se cachent dans ses terres, ou se marient à des filles de Mocoranga ou de Batongadô, sous peine pour la femme de devenir esclave du seigneur du noir; et il sera obligé de faire remettre tout noir qui se sera enfui dans ses terres.

Il permettra aux Portugais de parcourir ses terres et d'y demeurer; et si quelque vol a lieu, il sera obligé de livrer le voleur au capitaine de Massapa, sans rien exiger pour cela.

Il ne fera aucune concession de terrains aurifères, quelqu'en soit la qualité, pour ne pas porter atteinte à l'exclusif du commerce réservé par le Gouvernement Portugais au profit de la forteresse de Mozambique.

Il laissera faire des explorations dans tout son Royaume et exploiter toutes les mines sans y mettre obstacle, attendu que le Roi et les marchands en retirent beaucoup d'avantage, et que ses domaines en sont enrichis.

Il chassera tous les Maures de son Royaume, dans le délai d'un an; et tous ceux qui s'y trouveront, passé ce délai, seront mis à mort et leurs propriétés confisqués au profit du Roi de Portugal.

Et comme aux environs du fort de Tete on a soumis quelques terres, elles lui seront annexées pour le service de Sa Majesté, et en fera visiter celles qui s'étendent depuis les *monganos* de Chirnua jusqu'à Tete, et depuis les *monganos* de Mocomoara jusqu'au Mongano et depuis Jhamacoso jusqu'à Tete et au Zoenha.

Il fera visiter tous les trois ans le nouveau Gouverneur de la forteresse de Mozambique dès qu'il

¹ "Documentos relativos á Questão dos Direitos de Portugal á Soberania da Ilha de Bolama, &c.," deuxième collection (1834-1870), Lisbonne, 1870, p. 143 et suivantes.

prendra possession de son Gouvernement, et il sera obligé de lui envoyer trois lingots de Botonga, et le dit Gouverneur lui enverra un présent.

Il fera chercher par tout son Royaume les mines d'argent, et en avisera le Capitaine de Massapa pour qu'il en informe le Gouverneur; et lorsque Sa Majesté enverra des mineurs ils pourront chercher l'argent dans toutes ses terres, et les creuser librement.

(Signé) MANUZA, sa \bowtie marque, *Empereur de Monomotapa.*

Le 24 Mai, 1629, Manuel Gomes Serrão, Capitaine-Major de cette expédition, a réuni les religieux, les capitaines, les hommes mariés et les soldats, et en présence de tous, du Roi et de ses courtisans, il leur a lu les articles sus-mentionnés, demandant au Roi s'il était content de s'y soumettre et de les observer ainsi qu'ils avaient été lus et déclarés. Le dit Roi, Empereur du Monomotapa, a répondu qu'il était vassal de Sa Majesté, et qu'il le serait toujours, lui et ses descendants, et qu'il promettait d'observer les articles dans la forme qu'ils lui avaient été lus; en foi de quoi j'ai signé et je certifie que le Roi a signé au moyen d'une croix que je lui ai vu faire de sa propre main, les lettres de son nom ayant été tracées par le Révérend Père, Vicaire-Général de Tete et aumônier de cette expédition, Frère Luiz do Espirito Santo, religieux de l'Ordre des Dominicains. Et le Capitaine-Major a signé ici avec moi et avec tous les présents.

(Signé)

MANUEL CABRAL.

MANUEL GOMES SERRAO, *Capitaine-Major.*

Frère LUIZ DO ESPIRITO SANTO, *Vicaire-Général.*

Frère GONCALO RIBEIRO, *Vicaire du Massapa.*

LOURENCO PEREIRA.

ANTONIO CAMELLO BROCHADO.

LUIZ ARANHA CALDEIRA.

MANUEL RODRIGUES LEAL.

MIGUEL DE MAGALHAES.

LUIZ RIBEIRO.

GONCALO FERNANDES FRANCO.

GASPAR PEREIRA CABRAL.

DOMINGOS FROES DE BRITO.

DE JOAO RODRIGUES VARELLA.

DOMINGOS CARDOSO.

BELCHIOR DE ARAUJO.

MARCOS DE AVELAR.

JOAO PEREIRA REBELLO.

PEDRO DA COSTA.

Cette copie des stipulations du Traité que les dits Portugais ont fait avec le Roi Monomotapa, moi, João Coelho, Greffier Public Judiciaire du Fort de Tete, pour Sa Majesté, je l'ai fait copier du propre original bien et fidèlement, sans rien ajouter ni rien diminuer qui puisse occasionner de doute, et je certifie que l'on peut donner à cette copie la foi entière qu'on donne aux copies de cette nature en justice et hors d'elle: en foi de quoi j'ai signé et apposé ma griffe de coutume, ainsi que suit, à Tete, ce 28 Juin de l'année 1629.

(Signé) JOAO COELHO.¹

(No. 80.)

Donation que le Régule Capella de Tembe fit de ses terres à la Couronne Portugaise, 10 Novembre, 1794.

(Traduction.)

En l'année 1794 de la naissance de Notre Seigneur Jésus-Christ, le 10 du mois de Novembre, sur le territoire du régule Capella, et dans la bourgade de Massangana, en présence du Gouverneur par interim, José Correia Monteiro de Mattos, ainsi que de l'officier, des sous-officiers et des soldats soussignés, a comparu le dit régule Capella accompagné de ses conseillers et de ses parents; et le dit régule a dit que de sa volonté libre et spontanée, il faisait donation à la Couronne du Royaume de Portugal des terres situées à partir de Massangana du côté du sud-est jusqu'à la distance d'une demi-lieue au bord de la mer du côté ouest, et sur une largeur d'un quart de lieue vers l'intérieur; et il a dit qu'il faisait la dite donation en reconnaissance du service qu'il avait reçu du Gouverneur de cette baie, le Sieur Luiz Correa Monteiro de Mattos, qui a contribué de ses deniers pour que le dit régule reprit le pouvoir dont il avait été dépossédé par ses vassaux révoltés. Il a dit en outre que les habitants du territoire mentionné donné à la Couronne de Portugal seraient sujets et subordonnés de ce Gouvernement, qui pouvait en disposer comme appartenant à la Reine de Portugal, notre Souveraine. Et tous les conseillers; savoir: José Sacique, Mamujuari Guangane, Chirinda Bongue, Cochambe Cumbane, Muanhim Inlhati, Totuané Chirete, Majousse Pochane et Maxivene, d'un commun accord en ont conféré la possession, qui a été reçue par le dit Gouverneur par interim, au nom de Sa Majesté Très-Fidèle la Reine de Portugal. Et le dit régule Capella et les conseillers sus-nommés ont juré selon leur rite et coutume avoir donné la dite possession, et ont signé en apposant leur griffe d'usage;

¹ "Bulletin de la Province de Mozambique," No. 29, du 15 Avril, 1864, p. 366.

et, moi, João Gonçalves de Sequeira, greffier des finances, j'ai dressé cet acte public de prise de possession, que j'ai écrit et signé.

Baie de Lourenço Marques, ce 10 Novembre, 1794.

(Signé)

JOAO GONCALVES DE SEQUEIRA.
Griffe du Régule CAPELLA.
Griffe de JOSE SUCIQUE.
Griffe de MAMUJUARI GUANGANE.
Griffe de CHIRINDA BONGUE.
Griffe de COCOMBE CUMBANE.
Griffe de MUANHIM INLHATI.
Griffe de TOTUANE CHIRETE.
Griffe de MAJOUSSE POCHANE.
Griffe de MAXIVENE.

José Correia Monteiro de Mattos, Gouverneur par interim de cette baie, je certifie qu'il est vrai que j'ai pris possession au nom de Sa Majesté Très-Fidèle, des terres dont le régule Capella a fait donation à la Couronne du Royaume de Portugal en signe de reconnaissance du dit régule pour le secours qui lui a été donné par ce Gouvernement pour rentrer dans sa royauté dont il était dépossédé ; et en témoignage de la prise de possession, j'ai signé le présent acte avec l'officier, les sous-officiers, et les soldats de la garnison de ce détachement de la Baie de Lourenço Marques, ce 10 Novembre, 1794.

(Signé)

JOSE CORREIA MONTEIRO DE MATTOS,

Lieutenant-Commandant.

LUIZ JOSE, *Enseigne.*

PEDRO SEMIAO, *Sergent.*

JOAO ANTONIO DE AZEVEDO, *Caporal.*

JOSE MIGUEL DE PAIVA.

MANUEL ANTONIO GONCALVES.

JOAQUIM JOSE MASCARENHAS.

FRANCISCO XAVIER DA FONSECA.

JOAO JOSE.

SALVADOR LEITE PEREIRA.

RODRIGO DE CARVALHO.

JOSE DE FIGUEIREDO.¹

(No. 81.)

Dépêche du 6 Juin, 1792, adressé par le Gouverneur de Lourenço Marques à celui de Mozambique, lui annonçant, entre autres choses, la Déposition du Régule Capella du Tembe.

(Traduction.)

Excellence,

Baie de Lourenço Marques, ce 6 Juin, 1792.

Je vous annonce par la présente tous les événements qui ont eu lieu dans ce point fortifié (*presidio*) à l'égard des régules et des Cafres de ce pays, ainsi que de la grande disette qu'il y a eu cette année, &c.

* * * * *

Les parents et les frères de Capella ont dépouillé celui-ci de son Royaume et ont voulu le tuer, parce que ce régule avait volé des vivres à tous ses vassaux . . . et on a élu son frère Roi à sa place.

* * * * *

Dieu garde, &c.

(Signé, PEDRO TESTEVIN.¹

(No. 82.)

Dépêche de João da Costa Soares, Gouverneur de Lourenço Marques, au Gouverneur-Général de Mozambique, 10 Février, 1796.

(Traduction.)

Excellence,

Baie de Lourenço Marques, ce 10 Février, 1796.

* * * * *

J'accuse réception de la colonne aux armes de la Couronne de Portugal que votre Excellence m'a envoyée pour la placer comme monument commémoratif sur le territoire donné par le Roi Capella, ce que j'espère mettre à exécution après la sortie de l'embarcation (*pala*).

Lorsque le même Roi Capella est venu recevoir le présent d'usage, je lui ai fait des propositions au sujet du vasselage et de la reconnaissance que les habitants ou les colons de la terre donnée devaient avoir envers le Roi de Portugal, ce à quoi il a répondu "qu'il n'avait plus aucun pouvoir sur la chose donnée," et que par conséquent nous eussions à proposer les charges qui seraient utiles, &c.

(Signé) JOAO DA COSTA SOARES.¹

¹ Archives du Ministère de la Marine.

Extrait du Rapport du Marquis de Sá da Bandeira, Ministre de la Marine et des Colonies, présenté à la Chambre des Députés le 11 Mars, 1859 (p. 34).

(Traduction.)

A Lourenço Marques on a rétabli la paix avec les régules Cafres, y compris le Manicousse, le Panda, et le Muzuari; et "dernièrement le régule Bacute, du Catembe (Tembe), sujet du Portugal, a été confirmé, sur sa demande dans le Gouvernement de son territoire, le Gouverneur du district de Lourenço Marques s'étant fait représenter dans cet acte par un délégué."

Lettre du Gouverneur de Lourenço Marques au Gouverneur-Général de Mozambique, envoyant le Tribut d'Ivoire des Rois Matolla, Manhica, et Capella du Tembe, 16 Juin, 1795.

(Traduction.)

Excellence,

Baie de Lourenço Marques, ce 16 Juin, 1795.

Vous verrez par le bilan les marchandises et autres objets que l'intendant intérimaire José Correia Monteiro de Mattos m'a remis et qui sont portés sur le compte de mes recettes, ainsi que les marchandises et autres objets qu'on m'a envoyés de cette capitale de Mozambique, et dont j'ai fait délivrer le connaissement en règle à l'appui de ses comptes et pour acquit du garde-magasin et du capitaine, qui emporte les "trois dents d'ivoire dont l'une a été donnée par le Roi Matola, déposé, l'autre par le Roi actuel Manhice, et l'autre par le Roi Capella," pesant en tout quatre arrobes et seize livres, &c.

Dieu garde, &c.

(Signé) JOAO DA COSTA SOARES.¹

Extrait de la Protestation faite contre le Gouverneur Michel Lupi de Cardenas, par Anselmo José do Nascimento, Greffier des Finances pendant son emprisonnement à Lourenço Marques, 28 Mai, 1823.

(Traduction.)

Prison de la Baie de Lourenço Marques, ce 28 Mai, 1823.

Mr. et je n'ai pas non plus commis un crime, en exigeant la remise de "l'ivoire que les Rois voisins ont envoyé," afin de l'inscrire aux recettes et de l'expédier à Mozambique, &c., ainsi "que les cornes de rhinocéros que les mêmes Rois" envoient toutes les fois qu'ils demandent de l'eau-de-vie, puisque votre Seigneurie s'empare de tout et leur fait cadeau de l'eau-de-vie de Sa Majesté, &c.

Je n'ai jamais proposé à votre Seigneurie de porter aux recettes les trente et quelques dents d'ivoire et les têtes de bétail envoyées par quatre fois de la part du Roi Chaga (Chaca) des Vatouas (Zoulous) pour *rechercher l'amitié* du seigneur des terres (qui est justement Sa Majesté) parce que je sais que votre Seigneurie les a prises à ses frais; et en pareil cas, je n'ai rien à dire, &c.²

Dieu garde, &c.

(Signé) ANSELME JOSEPH DO NASCIMENTO.

Plainte adressée au Gouverneur de Mozambique contre celui de Lourenço Marques, par Anselme Joseph do Nascimento, Greffier des Finances de la Baie, en 1823.³

(Traduction.)

Excellence,

Anselme Joseph do Nascimento, Greffier des Finances de la Baie de Lourenço Marques, vient, avec le plus profond respect, soumettre à l'examen de votre Excellence les actes de despotisme du Gouverneur actuel Michel Lupi de Cardenas, actes dont son ambition est la cause et qui se sont produits constamment depuis le 11 Décembre, 1822, jusqu'à ce jour, &c.

* * * * *

Peu de jours après l'arrivée de ce Gouverneur, Roi Capella vint le trouver apportant trois dents de gros ivoire, dont une pour être échangées contre les vêtements et le présent annuel; le Gouverneur le reçut, ne lui donna que quelques marchandises et un *almude* d'eau-de-vie, et le salua de trois coups de canon, &c.

Le Roi se retira fort affligé de n'avoir point reçu les vêtements qu'il attendait; et comme il s'embarquait pour se retirer avec ses gens, le Gouverneur suivi d'une escorte armée fondit sur les nègres de Mahom: ceux-ci ayant pris la fuite, le Gouverneur en tua un et en fit un autre prisonnier sans aucune raison, &c.

Trois jours après, le Roi fit demander pour quel motif on avait tué son vassal; il lui fut répondu que s'il envoyait de nouveau une telle ambassade, la guerre lui serait déclarée.

¹ Archives du Ministère de la Marine.

² Annexe à la dépêche du Gouverneur de Mozambique du 12 Octobre, 1823.—Archives du Ministère de la Marine.

Le Roi Macassana de Mapouto, se reconnaissant tributaire, envoya une dent de petites dimensions, une boule d'ambre blanc et une pierre précieuse, en déclarant qu'il avait fait donation de ses terres au Roi de Portugal, qu'il traite en frère, &c., demandant en même temps un drapeau Portugais, &c.

(No. 87.)

Lettre de Mitchell, Inspecteur des Terres au Cap de Bonne-Espérance envoyant un Plan des Limites des Possessions Portugaises dans l'Afrique Orientale, 15 Juillet, 1843.

(Traduction.)

M. le Duc,

Cap de Bonne-Espérance, ce 15 Juillet, 1843.

Je prie votre Excellence de vouloir bien excuser la hâte avec laquelle je lui écris, mais le navire (qui ne fait que d'arriver) part immédiatement.

Ces jours derniers, j'ai eu l'honneur de faire part à votre Excellence des événements relatifs à l'établissement d'une nouvelle Colonie Anglaise entre le Cap de Bonne-Espérance et la Capitainerie de Lourenço Marques. Je dois, par conséquent, faire également connaître à votre Excellence le résultat de l'Ambassade de M. Cloete, qui a été envoyé par notre Gouverneur, Sir George Napier, pour négocier avec les Boers (fermiers) révoltés, et la réception que ces derniers lui ont faite. Tout cela est rapporté dans la "Gazette" de ce jour, que j'envoie aussi par cette même occasion, attendu que la guerre, qui me semble inévitable, ayant pour théâtre un territoire voisin des possessions de Sa Majesté Très-Fidèle, ne pourra manquer d'appeler l'attention de votre Excellence. Des renforts de troupes sont partis aujourd'hui pour Port Natal par le bateau à vapeur "Thunderbolt;" Dieu veuille que notre Gouvernement continue dans la résolution de détruire les rebelles, ou de les soumettre à l'obéissance qu'ils doivent à notre Souveraine, et d'autant plus "que si on leur permet d'établir une République Indépendante, ils seront de fort mauvais voisins pour les Portugais de la Baie de Lourenço Marques."

Comme la "Gazette" peut s'égarer pendant le trajet, je dirai en peu de mots ce qui s'est passé. M. Cloete a été reçu sous un grand nombre de drapeaux dits de la République du Natal, et a subi à chaque pas les plus graves insultes. C'est à peine s'il a pu faire lecture de la proclamation dont il était porteur. La lecture achevée, les Boers ont déchiré cette proclamation, et ils ont traité M. Cloete d'une façon si ignominieuse que je n'ose pas la rapporter. Enfin, ils ont promis de donner leur dernière réponse (de se soumettre ou non) le 1^{er} Août; il me semble toutefois qu'ils ne veulent que gagner le temps nécessaire à l'arrivée d'un renfort de 1,500 hommes qu'ils attendent de l'intérieur.

Ce pli renferme un dessin calqué, qui montre les situations relatives de nos frontières et de celles de Sa Majesté Très-Fidèle, ainsi que l'étendu du pays occupé par les rebelles.¹ Votre Excellence doit bien imaginer que nous sommes ici divisés en deux camps, attendu que la majorité des habitants est d'origine Hollandaise.

Je saisis cette occasion pour rappeler à votre Excellence combien il serait avantageux pour la nation Portugaise d'avoir ici un Consul. Je m'offriraïs de bon gré, mais le poste important que j'occupe dans le service royal me sera peut-être un obstacle, quoique tout ce qui a rapport au Portugal ou aux Portugais soit toujours soumis à ma résolution, attendu que, malgré ma qualité d'officier Britannique, tous me considèrent comme Portugais (ce dont je m'honore fort). C'est pourquoi si votre Excellence jugeait à propos de conférer cet honneur au principal négociant de cette ville, François Collison, je suis autorisé à dire qu'il l'accepterait avec reconnaissance.

Toutes les nations ont ici des Consuls, la nôtre excepté. Cependant si un Consulat Portugais était établi ici, les vaisseaux de Sa Majesté Très-Fidèle, en recevraient une protection qui leur est bien nécessaire et sans la moindre dépense pour la Couronne Portugaise. J'ai eu plus d'une fois l'occasion de voir combien la présence d'un officier muni d'une pareille autorité serait utile.

Pardonnez-moi une hardiesse qui n'a d'autre cause que l'estime que je ressens pour une nation à laquelle je dois tout.

(Signé)

CHARLES C. MITCHELL, *Lieutenant-Colonel,*
*Inspecteur-Général des Terres du Cap de Bonne-Espérance.*²

A son Excellence le Duc de Palmella,
&c. &c. &c.

(No. 88.)

*Bulle in supereminenti de Paul V, du 21 Janvier, 1612, créant la Prélature de Moçambique.*³

In supereminenti militantis ecclesiae specula, meritis licit imparibus, divina dispositione praesidentes ad universa orbi loca, &c. . . .

§ 2. Cum autem, sicut clarissimus in Christo filius noster Philippus, Portugalliae et Algarbiorum Rex Catholicus, nobis nuper exponi fecit, &c.

§ 3. Nos igitur, hujusmodi supplicationibus inclinati dictam provinciam sive districtum insulae de Moçambique et loca, quae a promontorio de Guardafui usque ad promontorium Bonae Spei continentur, necnon quae Mombaca, Zanzibar, Ampaza nuncupantur, et omnia alia illius orae,

¹ C'est la carte No. 3.

² Archives du Ministère de la Marine.

³ Coquelines, "Bullarium," tome v, pars 4, p. 23; Visconde de Paiva Manso, "Bullarium Patronatus Portugalliae Regum," tome ii, p. 19.

ac etiam quæ *Cabaceira, Sofalla, Sena, Tete* vocantur ab ecclesia et diocesi goanensi præfatis perpetuo separamus, &c.

§ 4. Ipsamque provinciam seu districtum insulæ de Moçambique, sic dismembratum at separatum, in vicariam seu administrationem spiritualem provinciæ seu districtus insulæ de Moçambique nuncupandam perpetuo erigimus et instituimus.

(No. 89.)

Traité (1er) du 19 Février, 1810, entre le Portugal et l'Angleterre.

(Traduction.)

ARTICLE XXIV.

Tout commerce avec "les possessions Portugaises sur la côte orientale du continent" Africain (sauf les Articles réservés comme monopole par la Couronne de Portugal), et qui avait été permis antérieurement aux sujets de la Grande Bretagne, leur est confirmé et assuré à présent et pour toujours, &c.¹

(No. 90.)

Traité du 19 Février, 1810, entre le Portugal et l'Angleterre.

(Traduction.)

ARTICLE X.

Son Altesse Royale le Prince Régent de Portugal s'engage à ne pas permettre à ses sujets de continuer le commerce des esclaves *sur tout point de l'Afrique*, n'appartenant pas actuellement aux domaines de Son Altesse Royale, en réservant cependant pour ses propres sujets le droit d'acheter et faire le commerce des esclaves dans les *domaines Africains* de la Couronne de Portugal. Il doit être distinctement entendu que les dispositions de cet Article ne seront pas considérées comme invalidant ou affectant d'une manière quelconque les droits de la Couronne de Portugal aux territoires de *Cabinda* et *Molembo* ni comme limitant ou restreignant le commerce de *Ajudá* et d'autres ports d'Afrique situés sur la côte nommée vulgairement *Côte de la Mine* en langue Portugaise, lesquels appartiennent à la Couronne de Portugal, ou sur lesquels elle a des prétentions.²

(No. 91.)

Dépêche du Commissaire Portugais du Cap au Ministre des Affaires Etrangères lui remettant des documents au sujet des Plaintes de Panda relatives à l'envahissement d'une partie de ses domaines par nos Chasseurs de Lourenço Marques, 6 Mars, 1856.

(Traduction.)

Excellence,

Commission Mixte dans la Ville du Cap, ce 6 Mars, 1856.

A l'égard de ma dépêche No. 27 de l'année dernière, j'ai l'honneur de mettre sous les yeux de votre Excellence la copie ci-jointe No. 1 de la lettre que le Gouverneur-Général de cette Colonie m'a adressée en date du 28 du mois dernier, me communiquant la réponse qu'il avait reçue de Panda, ainsi que la copie No. 2, de celle que j'ai écrite en réponse à son Excellence le jour suivant.

Vu la plainte portée par le dit Panda au sujet de l'usurpation de ses territoires de chasse par les chasseurs d'éléphants de Lourenço Marques, et me conformant aux désirs de Sir George Grey exprimés dans sa susdite lettre, j'ai cru devoir adresser au Gouverneur de ce district la dépêche dont j'ai également l'honneur d'envoyer copie à votre Excellence sous le No. 3, et que j'ai remise sous pli ouvert au Gouverneur de la Province de Mozambique dans la dépêche dont copie ci-jointe.

Cependant, je dois dire à votre Excellence que, quoique j'aie remis ma dite dépêche à M. Alfred Duprat, afin qu'il l'expédiât par la première occasion avec d'autres qu'il doit envoyer à Mozambique, il paraît que l'occasion ne s'en présentera pas de si tôt.

Dieu garde, &c.

(Signé) LUIZ CARLOS REBELLO.

A son Excellence le Vicomte d'Athoguia.

ANNEXES AU No. 91.

(No. 1.)

Monsieur,

Hôtel du Gouvernement, Ville du Cap, ce 28 Février, 1856.

A l'égard de la lettre que je vous ai adressée le 15 Novembre dernier, vous informant que j'avais envoyé un porteur à Panda, &c., j'ai maintenant l'honneur de vous communiquer que j'ai reçu de l'anda une réponse conçue dans les termes suivants :

¹ Borges de Castro, "Collecção de Tratados, Convenções, &c., celebrados entre a Corôa de Portugal e as Mais Potencias," tome iv, Lisbonne, 1857, p. 382.

² Borges de Castro, "Collecção de Tratados, Convenções, &c., celebrados entre a Corôa de Portugal e as Demais Potencias," tome iv, Lisbonne, 1857, p. 408.

* * * *

Il me prie ensuite de représenter de la meilleure manière possible au Gouverneur des *possessions Portugaises environnantes*, qu'il est fort importuné par les chasseurs d'éléphants, qui sans aucun égard pour lui, chassent dans des forêts et sur des terres, qu'il s'est toujours réservées, de sorte que ses droits et ses privilèges en sont lésés.

En conséquence de cet article de son message, je vous serais très-obligé de faire en sorte qu'il soit procédé aux enquêtes nécessaires, et qu'à l'avenir le Gouvernement Portugais donne à Panda toute la protection qui sera en son pouvoir.

J'ai, &c.
(Signé) GEORGE GREY.

Au Commandeur Rebello,
Commissaire de Sa Majesté Très-Fidèle

(No. 2.)

M. le Gouverneur,

Ville du Cap, ce 29 Février, 1856.

J'ai l'honneur d'accuser la réception de la lettre que votre Excellence m'a adressée en date d'hier, pour me communiquer la réponse de Panda, &c.

Quant à la plainte du même Chef, que des chasseurs d'éléphants allaient, sans son consentement, et au détriment de ses droits et de ses ressources, chasser dans des forêts et sur d'autres terrains qu'il s'était toujours réservés pour lui-même, elle me semble si peu fondée, pour ce qui concerne les sujets Portugais résidant dans les dites possessions, qu'il est à ma connaissance que le Gouverneur du district de Lourenço Marques a refusé même d'accéder aux demandes qui lui ont été adressées par des chasseurs de leur vendre de la poudre pour la chasse des éléphants.

Cependant, conformément aux désirs de votre Excellence, je m'adresserai, par la première occasion, au Gouverneur de Lourenço Marques, pour le prier de prendre des informations sur l'objet de la plainte de Panda et de lui prêter toute la protection possible, afin d'empêcher l'empiétement de ses droits.

Je saisis, &c.
(Signé) LUIZ CARLOS REBELLO.

Son Excellence Sir George Grey,
Gouverneur-Général de la Colonie du Cap de Bonne-Espérance.

(No. 3.)

Monsieur,

Ville du Cap, ce 5 Mars, 1856.

J'ai reçu le 28 du mois dernier une autre dépêche de Sir George Grey, dans laquelle il m'a communiqué la réponse qu'il avait reçu du dut Panda dont je vous envoie ci-joint la traduction, ainsi que celle de la dépêche que j'ai adressée en réponse à son Excellence. Pour observer la promesse que j'ai faite à Sir George Grey dans ma dépêche citée, je vous prie de prendre toutes les informations possibles au sujet de la plainte de Panda, contenue dans la lettre de ce Gouverneur-Général, relativement aux chasseurs d'éléphants de ce district, qui vont chasser dans des forêts et sur des terres qui lui appartiennent; et je vous prie encore d'adopter les mesures que vous croirez convenables et qui seront à votre portée, non-seulement pour réprimer une telle usurpation, mais encore pour donner toute protection au susdit Panda, afin d'éviter la violation de ses droits territoriaux et de chasse, d'autant plus qu'il nous convient d'être en bonne harmonie avec ce chef puissant et de lui ôter tout prétexte de nous devenir hostile dans l'avenir. Enfin, vous ferez ce que vous jugerez le plus convenable. En attendant, je vous prie de me communiquer le résultat de vos recherches, afin que j'en donne connaissance, comme j'en ai le devoir, au Gouverneur-Général de cette Colonie, et je m'estimerai heureux si la réponse que j'attends de vous me met à même de prouver au même Gouverneur que la plainte de Panda n'est pas fondée en ce qui concerne les chasseurs de ce district.

Je profite, &c.
(Signé) LUIZ CARLOS REBELLO, *Juge Commissaire.*

M. le Gouverneur du District de Lourenço Marques.

(No. 4.)

Excellence,

Ville du Cap, ce 5 Mars, 1856.

J'ai l'honneur d'envoyer ci-joint à votre Excellence, sous pli ouvert, la dépêche que j'ai cru devoir adresser au Gouverneur du district de Lourenço Marques, vous priant, après avoir pris connaissance de son contenu, de vouloir bien l'expédier à sa destination, la faisant accompagner des ordres que vous jugerez convenables au sujet de ce qui en fait l'objet.

Je profite, &c.
(Signé) LUIZ CARLOS REBELLO, *Juge Commissaire.*

Son Excellence Vasco Guedes de Carvalho e Menezes,
Gouverneur-Général de la Province de Mozambique.

Traité fait entre Panda, Roi des Zoulous, et les Anglais, 5 Octobre, 1843.

(Traduction.)

Traité fait, conclu et signé par le Soussigné Panda, Roi de la nation de Zoulous, d'une part, et le Soussigné, Honorable Henri Cloete, Esq., L.Z., LL.D., en qualité de Commissaire de Sa Majesté sur le territoire de Natal, d'autre part.

ARTICLE I.

La paix et l'amitié régneront dorénavant et pour toujours entre le Roi Soussigné, Panda, ainsi que ses sujets et Sa Majesté la Reine Victoria, ainsi que tous les sujets de Sa Majesté.

ARTICLE II.

Il est convenu entre les Soussignés que les frontières respectives entre le territoire du Natal et la nation des Zoulous seront indiquées au bord de la mer, par l'embouchure de fleuve Tugela, continuant de là jusqu'à la jonction de ce cours d'eau avec la rivière Umsinyaatee (ou rivière des Buflles) remontant la même rivière de Umsinyaatee (ou rivière des Buflles) ou toute autre ligne de frontière, tout le long ou près de ses rives, qui pourra être fixée postérieurement par le Soussigné, Commissaire de Sa Majesté pour le territoire de Natal, ou par tout autre Commissaire que Sa Majesté nommera, et par deux Indounas, ou Commissaires, que le Soussigné Panda, Roi de la nation de Zoulous, nommera à cet effet; et de là vers le nord jusqu'au pied des montagnes de Quathlamba (ou Draaksberg).

ARTICLE III.

Le Soussigné Panda, Roi de la nation des Zoulous, est convenu et s'oblige lui-même à déterminer Koedoe, capitaine de certains kraals placés par le feu Roi Dingaan sur la rive droite du Tugela, ainsi que tous autres capitaines ou chefs de kraals, qui se trouveront en deçà des limites du territoire du Natal fixées et déterminées par ce Traité, à être renvoyés de leurs stations respectives.

Le Soussigné, Commissaire de Sa Majesté, agréé et consent, de la part de Sa Majesté, à leur permettre qu'il restent jusqu'à ce que leurs récoltes soient parvenues à maturité et qu'ils puissent les emporter avec tous leurs effets et leurs propriétés légales.

Ce qui a été fait, convenu, et confirmé par la signature et les griffes du Soussigné, Roi Panda, et du Soussigné, Commissaire de Sa Majesté, dans la ville capitale d'Elapeen, ce 5 jour d'Octobre, 1843, en présence des témoins ci-mentionnés.

Ceci est la griffe du Roi \bowtie PANDA, faite par lui-même.

Ceci est la griffe de l'Induna \bowtie UMVANKLAMA, faite par lui.

Ceci est la griffe de l'Induna \bowtie UMHONDANE, faite par lui.

H. CLOETE, L. Z., Commissaire de Sa Majesté.

Témoins :

(Signé) D. C. TOOKEY.
C. J. BUISSINE.

Ce document a été interprété fidèlement, mot à mot, par moi au Roi Panda, qui a déclaré le comprendre entièrement et en approuve le contenu.

(Signé) J. KIRKMAN.

Je Soussigné, Chef et Roi de la nation des Zoulous, déclare, par le présent acte, que je cède tous droits et titres que j'ai eus jusqu'ici sur l'embouchure de la rivière d'Umvaloosi et sur la baie qui y est située, en faveur de Sa Majesté la Reine Victoria, ou du Souverain légitime de la Grande Bretagne, pour le présent et pour toujours, avec pleine liberté d'y débarquer, de visiter et d'occuper le rivage le long de la dite baie et de l'embouchure de la dite rivière de Umvaloosi, le Soussigné s'engageant et consentant à nommer, quand il en sera requis, deux Indounas, ou Commissaires, pour indiquer et vérifier les limites et l'étendue du rivage de la mer cédé par le présent Traité et donné à Sa Majesté la Reine Victoria ou au Souverain légitime de la Grande Bretagne à cette époque.

En témoignage de quoi, j'ai apposé ici ma griffe, dans ma ville capitale d'Elapeen, ce 15 jour d'Octobre, 1843, en présence des témoins ci-mentionnés.

Ceci est la griffe du Roi PANDA \bowtie , faite par lui-même.

\bowtie , griffe de l'Induna UMVANKLAMA.

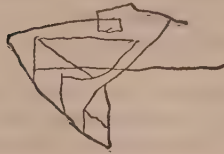
\bowtie , griffe de l'Induna UMHONDANE.

Témoins :

(Signé) D. C. TOOKEY.
C. J. BUISSINE.

Ce document a été interprété fidèlement, mot à mot, par moi au Roi Panda, qui a déclaré le comprendre entièrement et en approuver le contenu.

(Signé) J. KIRKMAN.

Griffe du Régule Capella.*Note du Ministre Anglais à Lisbonne sur la Traite des Nègres à Zanzibar, 26 Février, 1872.*

(Traduction.)

M. le Ministre,

Légation d'Angleterre, Lisbonne, ce 26 Février, 1872.

L'attention du Gouvernement de Sa Majesté s'est particulièrement portée, dans ces derniers temps, sur la traite des nègres de la Côte Orientale d'Afrique, sur le système suivi jusqu'à ce jour, sur les sacrifices faits par la Grande Bretagne dans le but d'arriver à la suppression de ce trafic, et sur la possibilité d'adopter des mesures assez énergiques pour assurer ce résultat; cette affaire a déjà été soumise à une Commission Parlementaire dont j'ai l'honneur de remettre à votre Excellence le rapport, contenant les preuves et les informations que l'on a pu obtenir sur cette matière. Après avoir mûrement examiné cette affaire le Gouvernement de Sa Majesté a conclu que l'état des choses relativement au trafic des esclaves, sur la Côte Orientale de l'Afrique, n'est nullement satisfaisant, que les résultats comparativement insignifiants obtenus jusqu'à ce jour ne sont en aucune manière en rapport avec les sacrifices que pendant les cinquante dernières années la Grande Bretagne a faits pour arriver à anéantir ce trafic, et qu'il devient nécessaire de modifier sa politique et de changer, si possible, le système suivi jusqu'à présent dans le but de remédier à un mal si sérieux.

Le trafic étranger de l'esclavage entre la Côte Orientale d'Afrique et la Mer d'Arabie, le Golfe Persique, la Perse et Madagascar est défendu, comme piraterie, par les Traités faits avec les Souverains et les Chefs de ces pays; le transport des esclaves par mer n'est permis que d'un port à un autre, dans les domaines de Zanzibar, dans l'Afrique Orientale, pendant quelques mois de l'année et dans de certaines limites.

Toutes facilités ont ainsi été données au Gouvernement de Sa Majesté au moyen de Traités, pour mettre fin au trafic des esclaves, et si ces Traités étaient fidèlement observés, ce trafic serait strictement borné au transport, comparativement insignifiant, des esclaves destinés aux travaux domestiques à Zanzibar. La traite des nègres, cependant, a été fort peu entravée par ces mesures, attendu que les Arabes du nord, s'armant du privilège qui leur a été concédé de transporter des esclaves dans les domaines du Sultan et attirés par la grande demande qui en est fait dans le Golfe Persique et par le gain considérable qu'ils retirent de ce commerce, sont parvenus à l'ombre de ce privilège, à en transporter un grand nombre en Arabie et dans le Golfe Persique.

Ce même privilège couvre également une illégale et immense exportation d'esclaves des ports méridionaux de Zanzibar à Madagascar, et il paraît qu'une traite considérable existe aussi entre cette île et la côte de Mozambique.

* * * * *

Tel est l'exposé des faits, qui a été présenté au Gouvernement de Sa Majesté. L'on voit, d'un côté, un pays naturellement riche et fertile, susceptible de prendre une part considérable au commerce de l'Orient, peuplé de races dont l'attention peut facilement être attirée vers les entreprises industrielles, de l'autre, un trafic d'existences humaines, qui démoralise les indigènes, dépeuple et ruine le pays, entrave ses progrès commerciaux et appelle l'intervention combinée de toutes les Puissances civilisées et Chrétiennes.

Après avoir profondément médité sur ce sujet, le Gouvernement de Sa Majesté a compris que, seul et sans y être aidé, il ne peut raisonnablement espérer la définitive extinction de la traite des nègres, mais qu'il lui serait possible d'atteindre ce but tant désiré s'il obtenait la coopération des autres grandes Puissances, intéressées à la prospérité de l'Afrique Orientale :

1. En obtenant du Sultan de Zanzibar la renonciation au privilège, réservé par Traité, du transport par mer, dans ses propres domaines, des esclaves destinés aux travaux domestiques. Ce privilège a uniquement servi de manteau à la traite des nègres pour l'étranger, et sous sa protection, les Arabes du nord exportent des chargements d'esclaves de Zanzibar ou des ports de la côte, ostensiblement, vers les points contenus dans les limites désignées pour ce trafic, mais en réalité vers les ports étrangers de la côte d'Arabie et du Golfe Persique.

2. En ouvrant le commerce de la côte, au moyen de l'établissement de communications plus régulières, par des bateaux à vapeur ou des paquebots, avec l'aide et la protection des Gouvernements intéressés au commerce de ce même pays. Ici, j'appellerai toute l'attention de votre Excellence sur les effets probables d'une semblable politique à l'égard de la prospérité de la Colonie Portugaise de Mozambique.

Ces mesures, dans l'opinion du Gouvernement de Sa Majesté, seraient plus efficaces que l'emploi de la force, et j'ai reçu, dans ce sens, des instructions pour exposer les faits sus-mentionnés, au Gouvernement de Sa Majesté Très-Fidèle et pour demander au même Gouvernement, dans l'intérêt de l'humanité et de la civilisation, de concourir avec le Gouvernement de Sa Majesté au développement des communi-

cations et du commerce sur cette côte, et de se joindre à lui pour exercer une pression diplomatique sur le Sultan de Zanzibar, afin de l'amener, en échange des avantages qui lui seront offerts, à abandonner complètement, dans un temps déterminé, ce privilège que seul il continue à maintenir, de transporter des esclaves par mer dans ses domaines. J'ai reçu encore d'autres instructions d'après lesquelles je dois déclarer à votre Excellence, que le Gouvernement de Sa Majesté recevait avec plaisir et saurait apprécier toutes autres mesures que le Gouvernement Portugais trouverait bon d'employer au sujet de l'action diplomatique qu'il s'agira d'entreprendre contre le trafic des esclaves.

Enfin, Lord Granville désire que j'obtienne de votre Excellence une prompte réponse et que j'apprenne aussi à votre Excellence que le Gouvernement de Sa Majesté a adressé de semblables communications aux Gouvernements de la France, de l'Allemagne et des Etats Unis d'Amérique.

Je profite, &c.
(Signé) A. A. MURRAY.

Plan de la Baie de Lourenço Marques : 1873.

Esquisse du Territoire contesté entre le Portugal et l'Angleterre dans la Baie de Lourenço Marques.

Limite des Possessions Anglaises et Portugaises dans l'Afrique Australe," par Charles C. Michell, Lieutenant-Colonel, Inspecteur-General des Terres du Cap de Bonne Espérance : 1843.

Inclosure 3 in No. 4.

Count de Seisal to the Duc de Broglie.

M. le Duc,

Paris, le 15 Septembre, 1873.

SA Majesté le Roi de Portugal mon auguste Souverain, et Sa Majesté la Reine d'Angleterre, ayant convenu de soumettre à l'arbitrage de son Excellence le Président de la République Française la contestation pendante entre leurs Gouvernements respectifs concernant la souveraineté de certain territoire de la Côte Orientale d'Afrique, situé dans la Baie de Lourenço Marques, et son Excellence le Président de la République ayant accepté l'honorable mandat dont la confiance des deux Puissances l'a investi, j'ai l'honneur de transmettre ci-joint à votre Excellence, par ordre de mon Gouvernement, huit exemplaires du Mémoire par lequel le Portugal démontre ses droits irréfutables au territoire contesté. En vous priant, M. le Duc, de vouloir déposer entre les mains de l'illustre Arbitre un exemplaire du dit Mémoire et de faire tenir les autres à MM. les membres de la Commission instituée pour examiner les documents qui seront présentés par les deux parties adverses, j'ai, &c.

(Signé) C^{TE}. DE SEISAL.

Inclosure 4 in No. 4.

Lord Lytton to the Duc de Broglie.

M. le Ministre,

Paris, September 15, 1873.

HER Majesty the Queen of Great Britain and Ireland my august Sovereign, and His Most Faithful Majesty the King of Portugal, having agreed to submit to the arbitration of his Excellency the President of the French Republic the conflicting claims of Great Britain and Portugal to certain territories formerly belonging to the Kings of Tembe and Maputa, on the East Coast of Africa, including the Islands of Inyack and Elephant, I am instructed to request your Excellency to be so good as to convey to the President this expression of the thanks of Her Majesty's Government for his Excellency's consent to act as Arbitrator for the settlement of the above-mentioned claims in compliance with the request made by Her Majesty's Ambassador on behalf of the Government of the Queen my Sovereign.

In fulfilling this instruction, I have furthermore the honour to transmit herewith to your Excellency the Case prepared by Her Majesty's Government for submission to the President, together with six copies of the same for the use of any Commission

* See Inclosure 1 in No. 3.

PLAN DE LA BAIE
DE
LOURENÇO MARQUES

1075

Ville de Lourenco Marques } Lat 25° 58'
 } Long 41° 37' E Merid de Lisbonne

Echelle de mille

ESQUISSE
DU TERRITOIRE CONTESTÉ
entre
LE PORTUGAL ET L'ANGLETERRE
dans la
BAIE DE LOURENÇO MARQUES.

Échelle 1 : 100,000

0 1 2 3 4 5 6 7 8 9 10 Kilomètres

L'Angage ou de Ouro

de l'Épave

de l'Épave

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- ☐ Territoire réclamé par le Portugal
- ☐ Territoire réclamé par l'Angleterre
- ☐ République du Transvaal

LIMITE DES POSSESSIONS ANGLAISES ET PORTUGAISES

dans

L'AFRIQUE AUSTRALE

par

CHARLES C. MICHELL

Lieutenant colonel, inspecteur général des terres du Cap
de Bonne Espérance

1843.



which the illustrious Arbitrator may be pleased to appoint to assist his Excellency in the above-mentioned claims.

I avail, &c.
(Signed) LYTTON.

Inclosure 5 in No. 4.

Lord Lytton to Count de Seisal.

M. le Comte,

Paris, le 15 Septembre, 1873.

EN vous exprimant mes remerciements empressés pour la note que je viens de recevoir de votre Excellence, accompagnée de six exemplaires du Mémoire imprimé que vous allez adresser aujourd'hui à M. le Ministre des Affaires Etrangères de la République Française selon les ordres du Gouvernement de Sa Majesté Très Fidèle, et conformément aux termes du Protocole signé à Lisbonne le 25 Septembre, 1872, entre les Plénipotentiaires de la Grande Bretagne et du Portugal, j'ai l'honneur de remettre ci-joint à votre Excellence un exemplaire du Mémoire imprimé que je suis également chargé par mon Gouvernement de prier M. le Ministre des Affaires Etrangères de vouloir bien soumettre à son Excellence le Président de la République Française conformément aux termes du susdit Protocole signé à Lisbonne au sujet de la souveraineté disputée entre la Grande Bretagne et le Portugal du territoire situé au sud de la Baie de Lourenço Marques.

J'ai aussi l'honneur de vous prier, M. le Comte, de vouloir bien remettre au Gouvernement de Sa Majesté Très Fidèle les six autres exemplaires du Mémoire Anglais qui se trouvent ci-joints.

Je ferai parvenir au Gouvernement de la Reine les cinq exemplaires du Mémoire Portugais qui accompagnent celui qui est destiné à l'usage de cette Ambassade, et j'adresse aujourd'hui même à son Excellence le Ministre des Affaires Etrangères de la République Française le Mémoire du Gouvernement Britannique.

Je profite, &c.
(Signé) LYTTON.

No. 5.

The Earl of Derby to Lord Lyons.

My Lord,

Foreign Office, September 8, 1874.

WITH reference to your despatch of the 28th of July, I now transmit to your Excellency two printed copies of the Counter-Case of Her Majesty's Government in the Delagoa Bay arbitration, one of which you will present to the President of the French Republic, and the other to M. Mendes Leal, the Portuguese Minister at Paris, with whom your Excellency will place yourself in communication as regards the presentation of the Cases to Marshal MacMahon. I likewise transmit to your Excellency eighteen further copies of the Counter-Case, six for the use of the French Government, six for the Portuguese Minister, and six to be kept in Her Majesty's Embassy.

I am, &c.
(Signed) DERBY.

Inclosure in No. 5.

Reply on behalf of Her Majesty's Government to the Portuguese Mémoire.

HER Majesty's Government does not deem it necessary to go back so far as the year 1558 to find a reason for placing its confidence in the impartiality of the Arbitrator. Her Majesty's Government believes, and with reason, that he will determine the differences which have unhappily, and for so many years, existed between Portugal and Great Britain, upon the evidence and the facts placed before him, without any reference to matters remote in date and having no bearing upon the question submitted to him.

Introduction to
Portuguese
Mémoire, p. 3
[p. 49].

Portuguese
Mémoire, p. 108
[p. 102].

Nor will Her Majesty's Government cite so respectable an authority as Cicero to convince or persuade the Chief of the great French nation that the law of force is inferior to the force of law, which is one eternal and immortal, and governs all nations.

But there are in the Portuguese Mémoire some errors in fact and some statements of law and principle which Her Majesty's Government cannot allow to pass unchallenged.

For instance, the Arbiter will find an error, small, indeed, as a fact, but deriving an importance from the Treaty concluded in 1869 between Portugal and the Transvaal Republic in the description of the southern limits of Delagoa Bay. The southern limit of that bay geographically is not $26^{\circ} 30'$ as laid down in page 1 of the Mémoire, but $26^{\circ} 22'$ south latitude.

In other respects the description of Delagoa Bay and of the adjacent territories and of the rivers flowing into it is sufficiently accurate.

bid., p. 6 [p. 51].

No argument, however, in favour of the Portuguese claim can properly be drawn from the statement of the importance of the Bay of Delagoa, or from the assertion that the Transvaal Republic wishes to place itself in harmony with the Portuguese, for the purposes of importation and exportation by means of the bay; and intends to abandon the harbours at the Cape and in Natal, because, among other alleged but unfounded reasons, the English threaten to annex the territory of the Republic.

This passage in the Portuguese Mémoire is so evidently framed with a view of preparing the mind of the Arbiter for the Treaty with the Transvaal Republic, that the matter is noticed at once, though it may be necessary to refer hereafter to the Treaty in detail.

There is no doubt that the Portuguese discovered the bay, nor is there any doubt that the fort and establishment of the Portuguese on the north bank of English or St. Esprit River were founded by the Portuguese and called Lorenzo Marques. And it is true, as admitted in the English Case, that geographers, and even Captain Owen so late as 1823, called the whole bay Delagoa or Lorenzo Marques Bay.

The imperfection of early charts is, however, well known.

D'Anville and Busching, in the middle of the last century, were the founders of geography as a science. D'Anville consecrated a long life to the work of replacing the errors of former times by more accurate conceptions, and his vast erudition and sound criticism gained for him the name of the French Ptolemy.

He reformed mathematical geography, Busching devoted himself to historical geography and the actual states of empires and nations.*

No conclusion, however, can be derived even from the best and most modern charts in which the names Delagoa and Lorenzo Marques are indifferently applied to the larger bay. But the smaller bay, as in the Convention of 1817 between Portugal and Great Britain, would be more properly called Lorenzo Marques as the estuary of the river known by that name, and so distinguishing it from the greater bay of which it forms a part.

bid., p. 12 [p. 55].

The perfect identity between the Delagoa Bay of the English and the Bay of Lorenzo Marques of the Portuguese is certainly not established by the argument from charts.

In reference to the voyages of discovery, whether by sea or land, made by the Portuguese, no doubt if the question for decision were the fact of discovery, the Portuguese would be able to show that they were the first discoverers; but the question is one of the right by occupation and possession, and not one of the fact of discovery or of right derived from discovery, not followed by occupation.

It is remarkable, however, that not one of the six so-called explorations by land referred to in the Portuguese Case, was undertaken for any national or scientific purpose. They were all the result of shipwreck on the coast, and performed by persons who were seeking their own personal security by reaching a civilized settlement, which the survivors ultimately found on the left bank of the river at Lorenzo Marques.

bid., p. 17 [p. 58];
Walkenaer, "Col-
lection des Rela-
tions des Voyages,"
m. xxi, Paris,
142.

The travels of Messrs. Cowie and Green at least, as undertaken by volunteer explorers, contrast favourably with the wanderings of shipwrecked Portuguese. And it is not, therefore, singular that Walkenaer should have said that the English were the first explorers of this part of Africa.

The observations on the population, climate, and produce of Lorenzo Marques and its neighbourhood have not, apparently, any connection with the question referred to the Arbiter.

* See *post*, page 178, for Béranger's edition of Busching, and the observation upon the southern limit of Portuguese dominion on the East Coast of Africa.

These would probably remain the same, whatever the decision may be, and whether the disputed territories were awarded to Great Britain or to Portugal. At all events, the population and produce will not be likely to diminish, and the foreign trade and commerce would probably increase if the decision were favourable to Great Britain.

But the alleged subjection of the natives to the Portuguese is an averment of grave and real importance; and the statements made in support of that averment should be considered with the greatest care and most closely examined.

Portuguese
Mémoire, p. 2
[p. 60].

It appears that the tribes to the north and north-east pay to the Portuguese Government, according to the produce of the land cultivated by them, a stated amount of provisions for the negroes employed by the Government. The tribes, however, to the south and south-west, that is, the tribes occupying the territory in dispute, are said to give, as tribute, ivory, rhinoceros horns, and sometimes cattle.

These are some of the very articles which constitute the commerce by barter or exchange with the interior.

The Arbitrer will observe and give a proper weight to the distinction between the regulated payment from the tribes to the north and north-east and the uncertain amount of so-called tribute, uncertain in quantity as well as in kind, said to be given by the tribes to the south and south-west.

Ibid., p. 23 [p. 61].

It is submitted, on the part of Her Majesty's Government, that the Portuguese Government would not leave so important a proof of dominion on the one side, and of vassalage on the other, as the payment of tribute in so vague and undefined a state. No specified sum or ascertained equivalent to be given as tribute is even named.

In reality nothing is given by these tribes as tribute to the Portuguese; but ivory horns and cattle are brought to market and exchanged for the articles supplied by the Portuguese in their Settlement of Lorenzo Marques.

The second and third sections of Chapter V, first part of the Portuguese Mémoire, afford a strong proof that the Portuguese dominion does not extend to the right banks of the Lorenzo Marques and English Rivers. The fort itself was restored in 1864, and four new batteries were constructed in 1867.

Ibid., pp. 19 & 20
[p. 59].

The town has been considerably improved, and the population has largely increased.

In 1828 the Governor, Caetano da Costa Mattoso, wrote that a site more healthy, more elevated, more easily defensible, and possessing water and fertile lands existed opposite Lorenzo Marques, on the right bank of the river.

The only assignable reason why the Portuguese Government has since 1828 remained in, enlarged and improved the site of their unwholesome and inconvenient establishment on the left bank, is that the ground on the right bank did not, and does not, belong to them.

It is obvious that the lands sold in 1845 by the Chief Makaxalla, said to be five days' journey from Lorenzo Marques, and situated north of the 26th parallel, formed to that time no part of the Portuguese territory.

Ibid., p. 27 [p. 63].

The first section of Chapter VII, Part I, of the Portuguese Mémoire, contains statements which seem singularly at variance with some arguments urged by the Portuguese in support of their claim.

Ibid., p. 31 [p. 65].

If the Portuguese Government is well founded in its claim by right of discovery and occupation, and by the evidence from travellers, ancient authors, historical documents, old charts, and payments of tribute, how does it happen that, in 1801, Mouzilla, as the price of the help given him in the war with his brother by the Portuguese, should have ceded to the Crown of Portugal Moamba, Cherinda, Manhica, and Injote? And still more strange is the admitted fact, that, on the 5th April, 1805, the Chief of Moamba gave to the Crown of Portugal the territories of Mafoumo, Mafoumo Branco, and Palane, the town and fort of Lorenzo Marques being, as appears from the statement in this chapter, on this territory of Mafoumo, and the plan of the bay annexed to the Portuguese case, showing the position of Mafoumo and Cherinda, to the north of the English or S. Esprit River.

Ibid., p. 32 [p. 65].

The conclusion seems obvious, and is this, that even on the north side of the river the Portuguese hold now and have held from the first of their settling on this part of the coast of Africa, only so much land as was ceded to them by the native chiefs, and they could protect by their guns.

This chapter is a strong corroboration of the facts and arguments stated and put forward in the original case on the part of the Government of Her Britannic Majesty, and proves the little foundation, or rather the absence of all foundation, for the claim of the Portuguese to any territory on the south side of the river, since even on the north side their possessions were so lately acquired and held on so feeble a tenure.

The documents 14, 15, and 16 annexed to the Portuguese Case are, it is submitted, the most convincing proofs of the independence of the tribes immediately to the north and north-east of the fort of Lorenzo Marques down to the dates of 1805 and 1861. They make it quite unnecessary to trouble the Arbitrer with any reference to the second part of the Portuguese Case from page 34 to page 49 [p. 66 to 73].

On that part of the Portuguese Case it is sufficient to observe that the statements and documents are quite consistent with the fact that the Portuguese endeavoured to establish a monopoly of commerce on the coast, and a dominion over the natives, but utterly fail to show that the natives ever surrendered the exercise of their independence except for short and few periods when overawed by Portuguese ships and troops, or in the few cases where the chiefs on the north bank of the river sold or yielded their lands to the Portuguese.

These cessions have almost all been made in quite recent times, and none of them was made of land or territory south of the river.

The difference in the boundary, as claimed by Great Britain and Portugal, is correctly stated in Part III, Chapter I. But why the line proposed by Great Britain should be more ideal than the line traced on $26^{\circ} 30'$ it seems hard to say, particularly as $26^{\circ} 30'$ starts from no definite point on the coast, and is more to the south than the southern extremity of Delagoa Bay.

The Arbitrer will find very little, if any, discrepancy between the account given in the third part of the Portuguese Case of the origin and phases of the differences raised in reference to the matter in dispute, and that contained in the history and documentary evidence set out in the English case; but some inferences are drawn and some statements made in the Portuguese Case, either by inadvertence or *in invidiam*, and to prejudice the judgment, which it is necessary but not agreeable to expose.

The letter of recommendation which Captain Owen, at the instance of Lord Dudley, received from the Portuguese authorities, is put forward as an admission on the part of Great Britain of the rights of Portugal. But no notice is taken of the fact that the expedition was sent to survey the whole coast, on parts of which, for instance, the very fort of Lorenzo Marques, Inhambane, and Mozambique, the Portuguese were known to have settlements. And the prominent statement of Captain Owen in his letter to the Governor of Mozambique (English Case, Appendix IV, p. 29 [p. 15]) that "the impression that all the surrounding country about Delagoa Bay was under Portuguese jurisdiction and authority, was false," is not noticed in the least.

And the passage in this letter from Captain Owen immediately following, and referring to the admission of Senhor Casimir, the Governor of Lorenzo Marques, that the whole country was free and independent; that the Portuguese had no authority beyond the precincts of the fort; and that the Governor was in hourly fear of an attack by the native Vatas even in his fort; and that they had already laid waste the surrounding country; and that he had no means of furnishing protection to any boats beyond the reach of his guns, is passed over in silence. Yet the Portuguese must have known the contents of this letter sent to the Governor of Mozambique, and the Portuguese Case is full of references to Captain Owen's narrative of voyages to explore the shores of Africa, where a similar statement is made.

With reference to the documents relied upon by the two Governments, Her Majesty's Government will not exchange such words as "fabricate" "the stamp of forgery," "falsehood," "audacity," and "impudence," so freely used by the compilers of the Portuguese Mémoire in their observations upon Captain Owen's conduct, believing that the use of such language is beneath the dignity of two great Powers, who are laying such evidence as each may have before the eminent person to whose decision the facts are referred.

The history of the brig "Eleanor," for the detention of which vessel it will be remembered that the Portuguese Government paid damages, is apparently introduced for the purpose of representing that the Portuguese drummer was wilfully shot, and yet the direct contrary is the fact. The man was killed by accident, and the Governor of the fort admitted such to be the case. The compilers of the Portuguese Case should have known this, for the whole transaction is told in the narrative of the voyages with which they are evidently familiar.

The most inexcusable negligence, however, on the part of those who prepared the Portuguese Case, is to be found in page 56 [p. 77]. Lord Dudley is there represented to have never answered the Portuguese note of the 22nd May, 1828; and the impression intended to be made by this representation is, that the reasons alleged in this note of the 22nd May in favour of the Portuguese claims were unanswerable. The true reason is admitted by Senhor Figaniere e Morão, who says the correspondence was

interrupted in consequence of the civil war which broke out in Portugal in that year (English Case, p. 21 [p. 12].)

Great Britain having, as was and is still believed, acquired the right to the territories of Mapoota and the islands, certainly acted from time to time upon that belief, and when the Treaty between the Portuguese and the Transvaal Republic became known, the British Government at once determined to have the question settled, not willing to have her rights quietly extinguished by a Treaty between two foreign Governments.

Whether Great Britain was right or wrong the Arbiter will determine once for all. But Her Majesty's Government sees with some astonishment the strong remarks upon the British occupation of Inyack and Tembe made in their case by the Portuguese, who had themselves also forcibly occupied Inyack, and afterwards by a stroke of the pen, assumed a dominion over the whole territory in question in their Treaty with the Transvaal Republic in 1869-70.

The fourth part of the Portuguese Case is very remarkable. In discussing, in the 19th century, a right of territory by occupation or cession, one does not see how an appeal can be made with effect to the ideas on the consequence or effect of discovery which prevailed in the 16th century. Of course, where continual occupation, or recognized dominion, has followed upon discovery, then the case is materially varied. Only in this latter case the right is not founded upon discovery, but upon occupation, or that which amounts to occupation. Such was evidently the principle of the decision in the Bulama Case, of which only a part of the award is given in the Portuguese text, though the whole award is properly inserted in the document No. 78.

Portuguese
Mémoire, p. 64
[p. 80.]

The modern and right principle is thus stated by Vattel (*"Droit des Gens,"* 1. 1, § 207), "When a nation finds a country uninhabited, and without an owner, it may lawfully take possession of it, and after it has sufficiently made known its will in this respect, it cannot be deprived of it by another nation. Thus navigators going on voyages of discovery, and meeting with islands or other lands in a desert state, have taken possession of them in the name of their nation, and this title has usually been respected, provided it was soon after followed by a real possession."

To the same purport Martens (*"Précis du Droit des Gens,"* § 37,) writes:—"Supposé que l'occupation soit possible, il faut encore qu'elle ait lieu effectivement, que le fait de la prise de possession ait concouru avec la volonté manifeste de s'en approprier l'objet. La simple déclaration de volonté d'une nation ne suffit pas non plus qu'une donation Papale ou qu'une Convention entre deux nations pour imposer à d'autres le devoir de s'abstenir de l'usage ou de l'occupation de l'objet en question. Le simple fait d'avoir été le premier à découvrir ou à visiter une île, &c., abandonnée ensuite, semble insuffisante même de l'aveu des nations, tant qu'on n'a point laissé de traces permanentes de possession ou de volonté, et ce n'est pas sans raison qu'on a souvent disputé entre les nations si des croix, des poteaux, des inscriptions suffisent pour acquérir ou pour conserver la propriété exclusive d'un pays qu'on ne cultive pas."

Every word in these passages tells against the Portuguese claim. The land, when discovered, was not uninhabited, when discovered was not, and has not since been occupied or cultivated by the Portuguese, who have left there no sign of their occupation except a stone, of whose existence no trace is to be found, save in the suspicious narrative of events said to have occurred after the cession made to Captain Owen.

The Portuguese Mémoire, in Part IV, Chapter VII, seeks to show that several European nations have acknowledged the right of Portugal to the territories in dispute. Ibid., p. 77 [p. 87]

The direct contrary certainly seems to be the fact. Thus, the French authorities conceived the Portuguese territory to begin at "*Inhaque en terre ferme, et près de l'île de ce nom, c'est où commence le Gouvernement de Mozambique.*" The German writers, cited in the Portuguese Mémoire, are to the same purport. "*Les Portugais ont au midi un fort qu'on appelle Inhaca.*" So the Swiss: "*Vers le sud les Portugais possèdent le fort d'Inhaque.*"

No doubt these writers may have followed each other, but the Portuguese adduce their evidence as independent testimony; and it is to this effect, that the southern limit of the Portuguese possessions was a fort on the main land near Inyack Island, on the River S. Esprit, which is another name for English River, a description which agrees exactly with the situation of the fort and town of Lourenço Marques, and destroys all pretence for saying that the Portuguese have occupied, or had establishments or factories, or one establishment or factory, or even a hut, except the attempted settlement, soon abandoned, of a few Portuguese on the shores of the

Mapoota so far back as 1589, and a small fort, whose abandonment is proved by its ruins.

When, therefore, Malte Brun, in the edition of 1857, says: "*La côte Africaine depuis la Baie de Lagoa jusqu'au Cap Delgado est censée appartenir aux Portugais, qui y ont en effet quelques établissements*," he evidently means from that part of the Bay of Lagoa on which the Portuguese have establishments, meaning with Delisle and de la Martinière that part of the Great Bay which is near Inyack Island and on the mainland.

Her Majesty's Government desires no better proof against the pretensions of Portugal to a dominion south of Inyack than that contained in page 79 [p. 88] of the *Mémoire* in these words: "*Dans le dix-huitième siècle le polygraphe Béranger, qui dans sa réédition de la Géographie de Busching, indique l'Unhaca comme point de départ de nos domaines. Vers le sud les Portugais possèdent le fort d'Inhaque.*"

The small number of establishments or factories held by the Portuguese on the eastern coast of Africa, and the extremely limited extent of the authority exercised, or dominion held over the natives by the Portuguese, is well described, pages 452, 458 of vol. I, "*Documents sur l'Afrique Orientale*," by Guillain, an author to whom the Portuguese *Mémoire* refers with satisfaction at page 36 of the *Mémoire*. Reading the Convention of 1817, with the information afforded by M. Guillain the English construction of the IInd Article of that Convention seems incontrovertible.

Scarcely any authority is referred to which says that the Portuguese ever held possessions to the south of the fort, which is evidently the fort of Lorenzo Marques, or any possessions on the islands or in the peninsula.

The passage from Horsburg's Directory, which is quoted at page 39 [p. 69] of the *Mémoire*, is in the following words:—

"There is a good watering-place on the southern shore opposite to the anchorage, and a little above Point Talloqueen, a long sandy point on the same side. There is a small rivulet where the Portuguese have a resident; opposite the point on the other side of the river the ruins of the Portuguese fort are visible." On the following page Horsburg speaks thus of the Portuguese and natives: "Although the Portuguese still retain a little intercourse with the natives, ships which trade here, ought not to place much confidence in them, particularly if boats are sent a great distance up the rivers with goods to barter, for in such cases the natives have been known to attack them and massacre the crews. Elephants' teeth are procured in barter for India goods and coarse stuffs of various kinds."

Portuguese
Mémoire, pp. 80
and 81
pp. 88 and 89].

The English authorities which are referred to are writing or speaking loosely in reference to the boundary question, and a glance at Colonel Michell's map (No. 87, Portuguese documents) will satisfy the Arbitrer that his plan was not drawn with a view to, and is of no authority whatever upon, the question referred.

This drawing of Colonel Michell's seems, from the Portuguese *Mémoire*, to have been annexed to a letter written by the Colonel to the Portuguese Minister in 1843. The letter is not among the documents, and Her Majesty's Government has no knowledge of the contents of that letter, for what purpose, or how it came to be written. Evidently, the author of the drawing, who was the Government Surveyor at the Cape, and not at Natal or Delagoa Bay, had very little knowledge of the different territories whose frontiers he proposed to trace. And the Portuguese themselves repudiate his authority, for they admit that he brought their boundary far south even of the territorial limits which they now seek to obtain. Mr. Pritchard, whose letter to M. Duprat is document 65, was merely secretary to the Admiral, and writes evidently without authority.

bid., p. 80 [p. 88].

Colonel Sutherland, in the passage cited in the Portuguese *Mémoire*, speaks not of the Bay, but of the "place, which they must have known to have been in the possession of the Portuguese for the last 200 years." He is commenting upon the instructions issued to the Commander of the "Noord," directing a survey of Rio de la Goa, not Bahia de la Goa.

To point this distinction it is only necessary to refer to preceding portions of Colonel Sutherland's book.

At page 207 he mentions, among the instructions to one of the Dutch surveying vessels, "You will not touch at the bays Hout, Struys, Vis, Mossel, Content, and de la Goa, which have been visited." This was in 1670 and anterior to the date of the survey of the Rio de la Goa, which is referred to in the Portuguese *Mémoire*, and shows that earlier than 1688 the Bahia de la Goa had been visited, and a further visit was unnecessary.

On page 216 of Colonel Sutherland's book he mentions the visit of an English

vessel to the Rio de la Goa for four weeks, thus distinguishing, in Colonel Sutherland's own words, between the Rio de la Goa and the Bahia de la Goa.

Again, on page 313, it is stated that the despatch to the Chamber upon the survey held in the Rio de la Goa mentions that "they found a very good bay, where a great number of vessels, great and small may lie, and into which several rivers discharge themselves." Upon a reference to the chart this description will be found to apply far more accurately to the smaller bay or estuary into which the Rivers Mattol, Lorenzo Marques, and Tembe discharge themselves, than to the large bay, which was then already well known as the Bahia de la Goa.

It is, therefore, submitted to the Arbiter that, in the extract referred to in the Portuguese Mémoire, Colonel Sutherland is speaking of the Rio de la Goa and not of the Bahia de la Goa. If so, the alleged admission of Colonel Sutherland has no bearing on the question before the Arbiter.

The casual observation of Sir Henry Rawlinson will not have any weight in deciding a question of territorial right arising out of the relations and proceedings of the two Governments in respect to that territory. Portuguese Mémoire, p. 81 [p. 89].

No doubt many writers in the seventeenth and eighteenth centuries speak of the river on which the fort and town of Lorenzo Marques are built as Fluvius Lusitanus, and as the fact is that the Portuguese did then and still hold the fort and town, the expression is not to be objected to. Yet, as the Tembe and Mapoota territories are the subject-matter of the present reference, and the River Mapoota is in those territories, evidence that the Mapoota was ever called Fluvius Lusitanus would be much more satisfactory, particularly as the sovereign rights of King Monamotapa are said to have extended in the seventeenth century to the Bay of Lorenzo Marques, and Phillippus Ferrarius in 1695, and Hoffman in 1698, speak of the River "Spiritus Sancti fluvius Lusitanus fluvius in regione Monamotapa," evidently meaning that the bank on one side, at least, was in the country of Monamotapo, though owing to a Portuguese establishment known to be on the other side, the river might generally be called a Portuguese river. Ibid., p. 73 [p. 85]

The argument drawn from the formation of the bay, and from the suggestion that, because the Portuguese occupy the approaches to the bay, therefore the whole bay and its shores belong to Portugal, fails altogether. The Portuguese do not command the approaches to the bay. Inyack Island, which forms part of the territory of Mapoota, has never been in their possession except when occupied for a short time by troops, who left when the object of their expedition was over, and the Portuguese would certainly have placed long since some building as a hospital or sanatorium on a healthy place like Inyack if they had had the territory.

The conclusion is, that the Portuguese have, at the most, the possession only of one side of the entrance into the bay, and that entrance is too wide to be commanded by the Portuguese guns.

Thus, the facts which are required to support the principle contended for in Part IV, Chapter III, of the Portuguese Mémoire, do not exist, and consequently there is no room for the application of the principle.

With the exception of the Transvaal Republic, no Government has recognised the extent of dominion to 26° 30' now claimed by Portugal.*

The Treaty made in 1869 is open to serious observations, and particularly against the Government of Portugal, which concluded that Treaty, although in the introduction to the Mémoire, at page 2 [p. 49], that Government admits that a conflict had been for some years pending between Portugal and Great Britain with reference to the rights of sovereignty extending over that very country asserted by the Portuguese in the Treaty with the Transvaal Republic to belong exclusively to Portugal. But Her Majesty's Government will not repeat here the observations made upon this Treaty in the English Case, pages 22 and 23 [pp. 12 and 13], to which the attention of the Arbiter is again requested.

Still it is singular that Portugal, which, notwithstanding this admitted long pending conflict, assumed in this Treaty the indisputable right to the debatable territory, and now relies upon its own assertion of that right as an evidence of title, should object that England has no right alone to put a construction upon the IInd Article of the Convention of 1817.

That Article, however, is in its terms before the Arbiter, who will form his opinion from history, the correspondence between the two Governments, and the documents adduced, whether or no the British construction that the Lorenzo

* An article in the "Bulletin de la Société de Géographie," p. 119, August 1873, by E. Allaen, gives an account of the motives which probably induced the Transvaal Republic and Portugal to make the Treaty of 1869.

Marques and English River, and the small bay so-called, is the southern limit of the Portuguese dominions, as intended in that Convention. The argument for the English construction is in pages 14 to 17 [pp. 8 to 10] of the Case on behalf of Her Majesty's Government.

With reference to the Treaties made by Captain Owen, and the measures subsequently taken by the Portuguese to throw a light upon, or entirely set aside as null *ab initio*, those Treaties, sufficient, perhaps, has already been said in the case of Her Majesty's Government. Yet it may not be out of place briefly to answer here some of the points suggested in the Portuguese Mémoire.

If Captain Owen's Treaties are in English, those of the Governor of Lorenzo Marques are in Portuguese. And the internal evidence from form, ideas, and words, is at least as European in the one set of acts as in the other.

Nor, it is submitted, can much, if any, stress be placed upon the manner in which the names or titles of the native chiefs were spelt. The writer, Portuguese or English, would endeavour to represent in writing the sound as it caught his ear, and would best be produced by letters in his own language.

If the natives stated that they accepted the Treaties on the assurance that Captain Owen said they were but a list of goods, which he intended to send them, they must have done this to deceive the Portuguese. Her Majesty's Government are confident that no British officer would be guilty of so gross an act of perfidy; and the fact admitted by the Portuguese that the Treaties were at once made known to them disproves the assertion now made for the first time, notwithstanding the immediately subsequent and long correspondence between the two Governments.

The acts of Captain Owen were ratified by the British Government, and the Treaties made by him are good in that respect. And if the Chiefs were, as was then contended, and is now contended, free and independent, both parties were competent to contract.

The Treaties, moreover, contained internal evidence that they were made by the Chiefs at their own free will, and with full knowledge of their contents and meaning "in conformity with the well understood and sufficiently ascertained desire of the inhabitants of the territory."

To argue that the natives had no power to make these Treaties with Captain Owen because they were subjects to the Portuguese is a *petitio principii*. The assertion itself is found in the so-called Act of Declaration of the 20th of October, 1823, Appendix V, and Inclosure 5 of the Case on behalf of Her Majesty's Government, a document apparently without a native signature or mark.

To say that any English were present as witnesses to such a document as this, or any other similar document brought forward in proof of their rights by the Portuguese, is to show a great deficiency of reliable evidence. And on this point the variance of expression in the two passages of the Mémoire referring to the alleged presence of the English subjects is somewhat singular. In page 54 [p. 76] the presence of the English is described as absolutely voluntary on their part, whilst on page 96 [p. 92] it appears that the English were expressly invited to be present.

From both accounts it is clear that, if any English were present, of which the only evidence is the statement of the writer of the *procès-verbal*, it is probable that they did not understand what was said or transacted, and it is certain that they did not in any manner assent to what is alleged to have been done.

If the design in expressly inviting their presence was to obtain a semblance of assent, the design failed signally.

How far the natives considered that they had given up their independence to the Portuguese, may be judged by the event which followed.

Lupe de Cardenas, the Governor of Lorenzo Marques, attempted to hoist the Portuguese flag on Tembe. He and twenty-six of his men were then killed by the natives; an ensign and thirteen black soldiers, who survived, were obliged to surrender, and submit to the terms of King Mazetta.

This fact is not unknown to the compilers of the Portuguese Mémoire, for it is related in the very number of Ocean Highways (February, 1873) to which they refer in page 103 [p. 96].

The argument founded on the partial use of the Portuguese language by the natives is as valuable as the argument would be that the Island of Madeira belonged to the English because English is, to some extent, spoken and understood in Madeira.

And, in reference to the establishments in the town of Lorenzo Marques by the Portuguese, whether military or civil, religious or educational, commercial or political, it is obvious that every civilized community, however small, must possess such; and

they prove nothing in favour of a right of sovereignty beyond the reach of those establishments, in the present case, to the south of the Lorenzo Marques and English River.

The Arbitrator is lastly referred to page 107 [p. 100] of the Portuguese Mémoire, where a passage is translated from a letter by Admiral W. H. Hall. The English words are correctly transcribed in the note, and mean exactly the reverse of the French in the text. Admiral Hall is arguing against a reference of the matter to arbitration, and he says in effect, that England should not submit her case to arbitration, because she is subject to, and has reason to apprehend, the jealousy of other nations. The Portuguese translators, misconceiving the whole line of the Admiral's argument, and not understanding the words which he uses, make him say that England is too powerful and too rich to have anything to fear from a reference to arbitration.

Her Majesty's Government does not adopt the argument of Admiral Hall, but protests against the perversion of his words and argument for the sake of the antithesis which follows, and the purpose of raising a prejudice.

The mistake, however, may be the result of ignorance and carelessness, and, so far, be accidental, and is unimportant, because it is presumed that the Arbitrator will not form his judgment upon the unauthorized statements of irresponsible writers to the public newspapers, but upon the acts of the two Governments.

In conclusion, Her Majesty's Government is not concerned with, and does not deny, the general principles on which so great a stress is laid, and to which so many references are made in the Portuguese Mémoire. But Her Majesty's Government does rely upon the historical facts and documents which show that the Portuguese never occupied, as Lords or Sovereigns, any territory to the south of the Lorenzo Marques and English Rivers or on the adjacent islands. That the Chiefs and natives of those territories were never the vassals of, or tributary to, the Portuguese Crown, and, being free and independent, were, by right of the law of nations, able to make, as they did make with the English, Treaties, which, to them, seemed good and proper, and which Treaties, so long as they did not touch the rights of other nations, were valid, have never been set aside, or abrogated, or receded from, and are now binding and indefeasible, save by the mutual assent and consent of the Contracting Parties.

No. 6.

Lord Lytton to the Earl of Derby.—(Received September 16.)

My Lord,

Paris, September 15, 1874.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 8th instant, together with the copies of the British Counter-Case in the Delagoa Bay question. I have disposed of them in accordance with your Lordship's instructions in that despatch, and have the honour to inclose copies of the notes which I have addressed respectively to the French Minister for Foreign Affairs and to the Portuguese Minister here on this occasion.

I have, &c.
(Signed) LYTTON.

P.S.—As the bag is closing I have received from the Portuguese Minister the Counter-Case, which he has submitted on behalf of his Government, and I beg to transmit herewith the six copies destined for the use of Her Majesty's Government.

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Inclosure 1 in No. 6.

Lord Lytton to the Duc Decazes.

M. le Ministre,

Paris, September 15, 1874.

WITH reference to the note which I had the honour to address under date of the 15th September, 1873, to the Duc de Broglie, requesting his Excellency to be so good as to submit to the President of the French Republic the case prepared by Her Britannic Majesty's Government for the arbitration of his Excellency the President in reference to the conflicting claims of Great Britain and Portugal to certain territories formerly belonging to the King of Tembe and Mapoota, on the Eastern Coast of Africa,

including the Islands of Inyack and Elephant, I have now (in conformity with Article 3 of the Protocol of the 25th of September, 1872) the honour to transmit herewith to your Excellency, for submission to the Marshal President of the Republic, the text of the Counter-Case of Her Britannic Majesty's Government in the above mentioned dispute,¹ together with six copies of the same for the use of the French Government, and I avail, &c.

(Signed) LYTTON.

Inclosure 2 in No. 6.

Lord Lytton to Senhor Mendez Leal.

M. le Ministre,

Paris, le 15 Septembre, 1874.

J'AI eu l'honneur le 15 du mois de Septembre passé d'échanger avec feu M. le Comte de Seisal les copies des Mémoires présentés de part et d'autre par les Gouvernements de Sa Majesté Britannique et de Sa Majesté Très Fidèle à son Excellence M. le Président de la République Française, qui a bien voulu entreprendre la tâche de décider sur le différend existant entre la Grande Bretagne et le Portugal quant à certains territoires avoisinant la Baie Delagoa.

Conformément aux instructions de mon Gouvernement j'ai l'honneur, M. le Ministre, de vous communiquer la copie de la Réponse au Mémoire Portugais qu'en vertu de l'Article 3 du Protocole du 25 Septembre, 1872, j'adresse aujourd'hui au nom du Gouvernement de Sa Majesté Britannique à M. le Ministre des Affaires Etrangères avec prière de vouloir bien la remettre à son Excellence M. le Maréchal MacMahon.

J'ajoute six autres copies de cette Réponse que je prie votre Excellence de mettre à la disposition de son Gouvernement et je me permets en outre d'y joindre une copie de la note par laquelle j'ai transmis ce document à son Excellence M. le Duc Decazes.

Agréé, &c.
(Signé) LYTTON.

Inclosure 3 in No. 6.

BATE DE LOURENÇO MARQUES.

Question entre le Portugal et la Grande Bretagne soumise à l'Arbitrage du Président de la République Française.

Deuxième Mémoire du Gouvernement Portugais (Réplique au Mémoire Anglais).

LA croyance dans les principes de la justice ne doit jamais être abandonnée, même lorsque les différends qui divisent les peuples ne sont soumis à aucun arbitrage et dépendent des hasards de la fortune ou du sort des armes.

S'il y a des siècles ou des époques néfastes, qui font que la conscience humaine hésite et arrive même à douter de la Providence devant le triomphe de criminelles audaces, tôt ou tard la justice ne s'en manifeste pas moins dans toute son éclatante splendeur.

"La civilisation," a dit Châteaubriand,² "ne décrit point un cercle parfait et ne se meut pas en ligne droite. Elle est sur la terre comme un vaisseau sur la mer; ce vaisseau, battu par la tempête, louvoie, revient sur sa trace, tombe au-dessous du point d'où il est parti; mais enfin, à force de temps, il rencontre des vents favorables, gagne chaque jour quelque chose dans son véritable chemin, et surgit au port vers lequel il avait déployé ses voiles."

En dépit de certaines apparences mal comprises, l'histoire n'est point une école de fatalisme, elle est un long plaidoyer en faveur de la liberté.³

¹ See Inclosure in No. 5.

² "Études Historiques, Exposition."

³ Lanfrey, "Histoire de Napoléon I," Paris, 1867, tome I, p. 3.

Pour les peuples comme pour les individus, la foi dans ces principes et la défense de la justice sont un devoir sacré ; tous doivent réunir leurs efforts pour en assurer le triomphe soit par les moyens que la force leur permet d'employer, soit en se sacrifiant aux heures où la faiblesse et l'abandon sont leur partage ; personne ne doit oublier l'admirable exemple du peuple Danois qui, placé entre l'incendie de sa flotte et le bombardement de sa capitale, soutenait avec héroïsme le droit des neutres hautement proclamé en son nom par le Comte de Bernstorff.

Si ces notions du juste, la bonne foi, le respect des Traités, devaient l'emporter sur des doctrines que le caprice seul peut soutenir, il semblerait superflu de répliquer au mémoire du Gouvernement Anglais et d'ajouter de nouveaux arguments à ceux que déjà, dans un précédent travail, nous avons soumis à la haute appréciation de l'arbitre chargé de prononcer sur l'affaire de Lourenço Marques.

Néanmoins le Protocole du 25 Septembre, 1872, par lequel le Gouvernement Portugais et le Gouvernement Britannique ont eu recours à l'arbitrage a établi dans son Article 3 le droit de réplique et dans son Article 4 la faculté, pour les deux parties, de faire défendre leur cause par des avocats, en présence de l'arbitre ; l'Angleterre n'ayant point renoncé au droit de réplique, le Portugal se voit forcément dans la nécessité d'user du même droit.

C'est là le motif et l'objet de ce second mémoire ou de cette réplique¹ qui se trouve divisée en cinq parties.

Dans la première nous opposons à l'Angleterre une exception péremptoire d'illégitimité de personne qui lui est un empêchement à nous contester la souveraineté d'une partie du territoire (le *Mapouto*) qui fait l'objet du différend.

Dans la seconde, toute en faisant abstraction de cette exception, nous examinons la valeur des arguments que le Gouvernement Anglais oppose à nos titres à la souveraineté de la baie dans toute la partie méridionale (*Tembe et Mapouto*) qu'il nous conteste ; et nous produisons de nouveaux arguments qui prouvent que notre droit était déjà reconnu par l'Angleterre en 1721.

Dans la troisième nous détruisons la valeur des titres produits par elle dans le but d'établir sa souveraineté sur les territoires qu'elle convoite.

Dans la quatrième partie nous démontrons que l'Angleterre ne peut s'appuyer sur son ignorance des faits ; que son désir de posséder la baie est fort ancien et a toujours été déçu, et que ce désir, dans l'esprit de quelques écrivains Anglais semble lié à celui (nullement partagé, nous en sommes sûrs, par le Gouvernement Britannique) de nuire plus ou moins directement à la France.

Dans la cinquième partie enfin, faisant le résumé de toute la question, nous finissons en réclamant, au nom de la justice et de l'équité, un jugement favorable au Portugal et nous indiquons, dans des appendices, les questions de fait et de droit qui font l'objet de notre premier mémoire et de la présente réplique.

Si la question pendante est de la plus haute importance pour le Portugal, ce qui, nous l'espérons, nous fera pardonner l'étendue que nous avons donné à ce travail, elle n'offre pas un moindre intérêt aux hommes d'étude qui suivront les phases d'un différend ayant pour objet une baie qui, sur la côte de Sofala, constitue le point extrême sud de la province Portugaise de Mozambique, dans l'Afrique Orientale.

En effet, le penseur doit ressentir une curiosité pleine d'intérêt pour une contrée qui, aux premiers âges, a entendu murmurer les noms de Tyr et de Salomon, qui n'est pas restée étrangère aux grands faits de conquête et de civilisation résumés dans les noms d'Alexandre et de César, qui a ressenti le contre-coup de la secousse imprimée au monde par la venue de Mahomet, qui a vu ses mers rougies par les luttes gigantesques de l'Orient et de l'Occident, qui fut, pendant de si nombreuses années, disputée par les Chrétiens et les sectaires du Prophète et qui, quoique éloignée du centre de l'activité humaine, ne s'en est pas moins trouvée en contact avec les plus grandes nations et liée aux événements les plus considérables.²

Le développement donné à la force productive et aux richesses de cette province sera pour elle, aussi bien que pour la métropole, le rachat des erreurs du passé ; ses ressources dûment mises à profit par la nation Portugaise, comme le témoigne la concession du chemin de fer de Lourenço Marques à Pretoria,³ le seront encore plus facilement aujourd'hui que le génie de la civilisation, en perçant l'Isthme de Suez et en

¹ Le Gouvernement Portugais a confié le soin de cette réplique au Vicomte de Paiva Manso (Dr. Lévy Maria Jordão) du Conseil de Sa Majesté, substitut du Procureur-Général de la Couronne et des Finances, Conseil du Ministère de la Marine et des Colonies et qui déjà avait été chargé du premier Mémoire.

² J. Gosselin "Recherches sur la Géographie Systématique et Positive des Anciens," Paris, 1798, tome i, p. 165 et 198 ; Abbadie, "Bulletin de la Société de Géographie," tome xviii, Paris, 1842, p. 221 ; Bunsen, "De Asania, Africae Littore Orientali, Commentatio," Bonn, 1852.

³ Voir la Carte No. 1 à la fin du volume.

creusant la terre classique de l'Égypte, vient de contraindre la Méditerranée et l'Océan Indien à s'unir dans un indissoluble embrassement à travers les plaines sablonneuses de la patrie des Pharaons.

Mémoire.

PREMIÈRE PARTIE.

Illégitimité de l'Angleterre pour contester au Portugal la Souveraineté du Territoire de Mapouto.

Nous opposons à l'Angleterre son défaut de légitimité pour contester au Portugal le droit sur le territoire de *Mapouto*, défaut qui est classé en jurisprudence parmi les nullités extrinsèques, attendu qu'il provient de l'incapacité d'agir du demandeur ou de l'incapacité de se défendre du défendeur.

Cette nullité qui constitue une véritable *exception péremptoire* du fond¹ peut, suivant le droit, être présentée en tout état de cause;² c'est pourquoi nous la présentons et la développons maintenant, quoique nous en ayons déjà parlé dans notre premier mémoire (p. 99 [p. 95]).

Cette exception est justifiée par le principe qui établit que, pour figurer dans une instance judiciaire, la partie doit se trouver dans la situation exigée par la loi pour pouvoir réclamer ce qu'elle prétend lui appartenir, ou, comme on le dit en jurisprudence Française, *avoir qualité pour agir*; hors de cette situation, le droit allégué manque de base.

Ainsi, celui qui réclame en justice le paiement de la créance d'une succession doit alléguer et prouver sa qualité d'héritier: "celui qui réclame une chose comme sienne doit alléguer et prouver son droit de propriété sur cette chose."

En demandant à l'arbitre un jugement par lequel le territoire de *Mapouto* serait déclaré lui appartenir et non au Portugal, l'Angleterre devait alléguer et prouver son droit de *propriété* ou de *souveraineté* sur ce territoire.

Mais elle reconnaît d'une manière explicite et formelle que le titre qu'elle produit ne lui donne aucun droit; elle avoue donc ce défaut de qualité ou cette illégitimité de personne que le Portugal lui oppose avec tant de raison comme fin de non-valoir.

Passons à la démonstration de ce qui précède.

Le mémoire (*case*) du Gouvernement Anglais dit que la question à résoudre par l'arbitre est de savoir à qui, de l'Angleterre ou du Portugal, appartient la souveraineté des territoires de *Tembe* et *Mapouto*,³ et il assure, à la page 3, que les respectifs régules de ces contrées en ont cédé à l'Angleterre la souveraineté.⁴

Mais un peu plus loin, ce même mémoire, oubliant ces deux propositions et tombant dans une déplorable contradiction, déclare explicitement que le Gouvernement Anglais reconnaît que les deux Traités faits avec le régule de *Mapouto* "ne lui donnent aucun droit territorial ou aucun droit de domaine ou de juridiction sur les territoires de *Mapouto*":—"Her Majesty's Government admits that these Treaties do not confer upon Her Majesty any territorial rights or any right to dominion or jurisdiction over the lands belonging to *Mapoota*."⁵

Quelque incroyable que cela paraisse, c'est écrit en toutes lettres dans le mémoire!

Le défaut de qualité, et par conséquent l'exception péremptoire, est prouvé par l'aveu de la partie elle-même devant l'arbitre, aveu qui constitue la plus sûre et la plus puissante des preuves, ainsi que l'établit l'Article 1356 du Code Civil Français, d'accord avec le droit Romain.⁶

Et si l'Angleterre avoue son défaut de qualité pour réclamer le territoire de

¹ Cass. 18 Novembre, 1813, S. 14, 25; Riom, 26 Mai, 1818, S. 20, 6.

² Cass. 4 Avril, 1810, S. 10, 218; 1 Mai, 1815, S. 15, 277, &c.—Bioche, "Dict. de Procédure," v° Exception, sect. iii, § 2°, Art. 3°, Nos. 171 et 189; Jocoton "Des Exceptions," Paris, 1859, p. 203, et suiv.; Krug-Basse, "De l'Office du Juge en Matière Civile," Paris, 1862, p. 40 et suiv.; Paul Larrouy, "Des Exceptions en Droit Romain et du Rôle du Défendeur en droit Français," Toulouse, 1873.

³ Whether the Portuguese or the British Government has acquired a right to the dominion over those lands.—p. 2.

⁴ These Chiefs, with the consent of the natives, and in exercise of their independent rights ceded by Treaty, in 1823, the sovereignty over these territories to the Crown of Great Britain.—p. 3.

⁵ Ibid.—p. 10.

⁶ "Litigatoribus sufficiunt ad probationes ea quae ab adversa parte expressa fuerint apud iudices," l. i, § 1. Dig. "De interr. in jur. faciend."

"Confessus in jure pro judicato est, qui quodammodo sua sententia damnatur," l. i. Dig. "De confess."

Mapouto et, d'après la lettre de la loi Romaine, ne peut résister à son propre témoignage (*testimonioque proprio resistere*), la conséquence en est que sa réclamation doit être repoussée : — “non vales agere—tua non interest,” même par le principe du droit Français et universel : — “Celui qui et sans intérêt est sans action,”¹ principe qui était déjà consacré par le droit Romain : — “si nihil interest cessat actio ;”² “agere poterit quoniam interest illius ;”³ “nihil petitoris interest.”⁴

Mais admettons qu'il n'en soit pas ainsi (ce que nous ne faisons que par simple hypothèse) et examinons la valeur des raisons présentées par l'Angleterre.

Le mémoire Anglais est divisé naturellement en deux parties essentielles : dans la première on essaie de détruire les droits du Portugal, dans la seconde on cherche à établir ceux de l'Angleterre.

Suivons le mémoire dans chacune de ces deux parties et démontrons l'inanité de cet écrit où le défaut de justice le dispute à l'absence de logique.

DEUXIÈME PARTIE.

Appréciation des Arguments présentés par le Mémoire Anglais pour combattre les différents Titres produits par la Nation Portugaise.

Dans les différents chapitres de la quatrième partie du mémoire dans lequel nous avons défendu les droits du Portugal, nous avons exposé les bases ou titres sur lesquels, *principalement* et *subsidièrement*, s'appuyait notre droit à toute la Baie de Lourenço Marques, mais nous n'y avons pas fait alors de distinction entre les titres principaux et les titres subsidiaires ; c'est ce que nous allons faire maintenant.

Nous considérons comme titres *principaux* à la *souveraineté* de cette baie et des respectifs territoires les titres suivants :

1. La découverte ;
2. L'occupation et la possession pendant trois siècles ;
3. La situation de la baie qui en fait l'accès du territoire non contesté.
4. La reconnaissance de nos droits par les règles mêmes de la partie contestée (*Tembe et Mapouto*) ;
5. La reconnaissance de ce droit par les nations de l'Europe ;
6. La reconnaissance spéciale de l'Angleterre elle-même. Tous ces titres ont fait l'objet des Chapitres 1, 2, 3, 6, 7, et 8 de notre premier Mémoire.

Nous considérons comme titres *subsidiaires* :—

1. La donation faite par l'Empereur du Monomotapa (objet du Chapitre 4) du 24 Mai, 1629, titre sur lequel nous aurions à nous appuyer si déjà avant cette époque notre droit sur la baie ne nous eût été acquis par la découverte jointe à l'occupation et à la possession.

2. L'expulsion des Autrichiens de la baie en 1781 dont nous avons fait mention à la fin du Chapitre 11, car si à cette époque notre droit n'eût point été déjà solidement établi par d'autres titres, cette expulsion aurait pris le caractère de *conquête*, ce qui alors était un titre légitime d'acquisition.

3. La donation faite, le 10 Novembre, 1794, par le régule du Tembe de la *propriété* d'une partie de son territoire (sujet du Chapitre 5). Nous considérons ce titre comme subsidiaire encore sous un autre point de vue que nous développerons plus bas, parce qu'il n'a point été invoqué comme titre de *souveraineté* mais bien de *propriété*, choses qui sont complètement différentes.

Le Mémoire Anglais ne s'est pas occupé de tous ces titres ; il a confondu d'une manière tout-à-fait déplorable les titres principaux avec les titres subsidiaires, sans avoir saisi la différence bien sensible qui existe entre eux et qui est chose courante en matière de droit ;⁵ il n'a pas non plus compris que les titres subsidiaires ne sont invoqués que par pure hypothèse ou sous un autre point de vue.

“Les conclusions subsidiaires,” dit Bioche, “indiquent, soit les prétentions auxquelles on se réduit pour le cas où le juge ne voudrait pas adjuger les conclusions principales, soit les preuves que l'on demande à faire à l'appui des conclusions principales qui ne sont pas suffisamment justifiées.”

¹ Thévenot-Dessaules, “Diction. du Digeste,” revu par Lesparat et Dussans, Paris, 1808, tome 1, v° “Intérêt,” No. 1,011 ; Victor Fons, “Aphorismes de Droit,” Paris, 1846, p. 138.

² L. viii. Dig. “Mandati.”

³ L. vii. Dig. “De Annuiis Legatis.”

⁴ L. xciii, § 9. Dig. “De Solut. et Liberat.”

⁵ “Diction. de Procédur.,” v° “Conclusions.”

Cette explication donnée, les seuls titres attaqués par l'Angleterre sont la découverte, l'occupation et la possession, la reconnaissance par les règles et les nations civilisées et celle de l'Angleterre elle-même par la Convention de 1817.

Nous examinerons dans des titres distincts, en suivant la méthode déjà employée dans notre premier mémoire, la valeur des arguments produits contre chacun de ces titres.

TITRE I.

Arguments contre le Titre de la Découverte.

L'Angleterre dit (p. 5) que le simple fait de la découverte d'un territoire, sans possession et sans occupation, n'entraîne pas, *aujourd'hui*, la souveraineté de ce territoire.

Et nous lui opposons que nous n'avons pas présenté le *simple fait de la découverte* comme base de notre droit ; et cela est si vrai que nous avons invoqué *l'occupation* et la *possession* de plus de trois siècles. Cependant, alors même que nous eussions présenté ce *simple fait de la découverte* comme base de notre droit, nous l'aurions fait avec avantage :

1. Parce que, la valeur du titre ou cause juridique de l'acquisition¹ devant être appréciée d'après les principes juridiques en vigueur à l'époque à laquelle ce titre se rapporte, il est hors de doute que au 16^{ème} siècle, époque de notre découverte de la baie, la découverte était un titre légitime d'acquisition, ainsi que nous l'avons démontré dans notre mémoire à la page 63, et ainsi que l'affirme le célèbre jurisconsulte Bluntschli :² " On croyait en Europe, à l'époque des grandes découvertes dans les pays d'outre-mer, que la simple découverte d'un territoire inconnu constituait un titre suffisant pour s'adjudger la souveraineté de ce pays " ;

2. Parce que l'Angleterre elle-même reconnaissait et admettait à cette époque la découverte comme titre de droit, et qu'elle poussait même ce principe jusqu'à l'exagération, ainsi que nous l'avons démontré en invoquant, entre autres faits, le " Mare Clausum " de John Seldon.

Et il est à remarquer maintenant que ce livre, dédié à Jacques 1^{er} et traduit ensuite par ordre de Cromwell, n'est pas le produit accidentel et bizarre d'un patriotisme exalté, il est plutôt l'expression presque officielle de l'audacieux dessein de la politique maritime Anglaise, dessein poursuivi à travers les révolutions et les siècles avec cette énergie de volonté qui distingue la nation Britannique et que, encore au siècle dernier, en 1757, Lord Chatham résumait ainsi : " Point de paix que la France ne signe la destruction de sa marine ! C'est bien assez qu'on lui permette le cabotage ; l'Angleterre doit se réserver la souveraineté exclusive de l'océan ! " ³

3. Parce qu'il est chose jugée entre le Portugal et l'Angleterre, dans l'affaire de Boulama, comme nous l'avons prouvé à la page 54 [p. 76] du premier mémoire, que la simple découverte, comme titre d'acquisition, doit être appréciée suivant les idées de l'époque et considérée, suivant ces idées, comme un titre légitime.

À toutes ces considérations on peut ajouter que, même suivant les principes du droit des gens moderne, si la simple découverte d'un territoire ne constitue pas un titre suffisant de propriété, c'est seulement quand le territoire découvert a été abandonné sans que celui qui en a fait la découverte y ait laissé de traces permanentes de possession et de volonté, ainsi que le dit Martens : " Le simple fait d'avoir été le premier à découvrir ou à visiter une île, &c., abandonnée ensuite, semble insuffisant . . . tant qu'on n'a point laissé de traces permanentes de possession et de volonté. " ⁴

Mais le Portugal, en admettant comme pure hypothèse que son premier titre à la Baie de Lourenço Marques dût être apprécié suivant les idées modernes, ne s'est pas borné à découvrir ; il a occupé la baie et y a imprimé le sceau de sa personnalité.

¹ Nous prenons le mot titre dans son sens le plus étendu, qui est le propre. Zacharie, " Le droit Civil Français, " tome ii, § 343.

² " Le Droit International codifié, " 2e édition, Paris, 1874, § 278, not., p. 170. Voyez aussi le curieux travail de Don Jorge Juan et Don Antonio de Ulloa, " Dissertacion Historica y Geographica sobre el Meridiano de Demarcacion entre los Dominios de España y Portugal, " Madrid, 1749.

³ Eug. Cauchy, " Le Droit Maritime International considéré dans ses Origines, &c., " Paris, 1862, tome ii, p. 121 ; Laurent, " Études sur l'Histoire de l'Humanité, " tome xv, p. 54.

⁴ " Précis du Droit des Gens Moderne de l'Europe, " édition de Vergé, Paris, 1858, tome i, § 37.

TITRE II.

Arguments contre l'Occupation et la Possession.

Les Anglais reconnaissent que nous avons occupé et que nous occupons depuis des siècles la rive nord ou gauche du fleuve du *Saint-Esprit*, où nous avons un fort, et tout en avouant notre occupation de la partie méridionale de la baie, de la rive droite du fleuve vers le sud, c'est-à-dire du *Tembe* et du *Mapouto*, ils prétendent que "cela n'a été que temporairement, à titre précaire, et en payant une redevance aux régules" (p. 5, 7 et 9 [pp. 4, 5, et 6]).

Afin de détruire complètement ces assertions inexactes de fait et de droit qui concernent un point capital dans la question pendante, nous sommes forcés d'insister sur ce que nous avons déjà écrit dans notre premier mémoire, et de le corroborer par des faits, des documents et des arguments nouveaux, dans les suivants chapitres de ce titre.

Chapitre I.—*Occupation et Acquisition de la Possession de toute la Baie et du Territoire en Dépendant.*

Nous avons déjà démontré dans la deuxième partie du premier mémoire,¹ que, depuis l'exploration de la Baie de Lourenço Marques jusqu'à la fin du dix-septième siècle, nous l'avions occupée au moyen de *factoreries* qui, à cette époque, étaient au nombre de cinq, savoir : une au nord, dans le *Manhiça* ; une autre au sud, dans l'*Unhaca* ; une troisième dans l'île *Chefine* et les deux dernières sur les deux rives du *Saint-Esprit* ; nous avons également démontré que nous en avons exploité le commerce au moyen des navires qui chaque année y étaient envoyés de Mozambique.

L'existence de ces cinq factoreries pendant le dix-septième siècle est attestée par le témoignage contemporain de Bento Teixeira Feyo, dans son rapport sur le naufrage des vaisseaux "Sacramento" et "Nossa Senhora da Atalaya" qui eut en 1647,² rapport publié à Lisbonne en 1650 :—"Trois jours après notre arrivée (dit-il) on distribua dans les cinq factoreries les équipages des vaisseaux composés de cent vingt-quatre Portugais et de trente noirs captifs."

Le même historien parle plus particulièrement des factoreries de l'*Unhaca*, sur le territoire de Mapouto, et de l'île *Chefine* :—"Le Roi de l'*Unhaca* nous reçut et nous offrit l'hospitalité de bon cœur, il nous apprit que la goëlette de Mozambique était arrivée à l'île Quiufine (*Chefine*) et qu'elle n'avait pas encore touché à la factorerie de l'*Unhaca*, comme c'était l'habitude."³

Diogo de Couto, dans son récit du naufrage du vaisseau "S. Thomé" publié à Lisbonne en 1611, fait mention d'un village Portugais établi à douze lieues dans l'intérieur, sur le territoire de Mapouto, qui existait déjà en 1589 :—"Ils remontèrent les bouches du fleuve Inhaca (Mapouto) et étant descendus à terre ils apprirent que, dans le village où habitait le roi, à douze lieues en remontant le fleuve, se trouvaient quelques Portugais. A cette nouvelle ils ressaisirent les rames, et à grande peine, car ils étaient fort affaiblis, ils remontèrent le fleuve et au bout de douze jours arrivèrent au village où ils trouvèrent Jeronymo Leitão avec quelques compagnons, qui depuis un mois environ étaient partis du fleuve de Lourenço Marques (comme nous l'avons dit plus haut) sur une pirogue chargé d'ivoire."⁴

Les suivants écrivains indiquent spécialement la factorerie du *Manhiça*, (pointe nord de la baie) :

¹⁰ En 1625, Francisco Vaz de Almada, dans le récit du naufrage du vaisseau "S. João Baptista" publié pendant la même année à Lisbonne :—"Aussitôt que nous eûmes en marche et nous suivîmes la plage jusqu'à ce que nous fussions arrivées sur les terres d'un roi que l'on nomme le Manhissa." C'est sur cette terre que nous avons notre plus vaste factorerie.⁵

^{2.0} En 1650, Bento Teixeira Feyo, dont il a été parlé plus haut :—"A grande peine les nôtres parvinrent à l'île Quiufine (*Chefine*) où ils trouvèrent une goëlette dont l'équipage leur fit accueil ainsi que le Capitaine Diogo Velho da Fonseca, né à

¹ P. 34, 37 [pp. 66, 67].

² "Récit. du Naufrage au Cap de Bonne-Espérance des vaisseaux 'Sacramento' et 'Nossa Senhora da Atalaya,' revenant de l'Inde en Portugal, sous les Ordres du Capitaine-Major Luiz de Miranda Henriques, en l'Année 1647," par Bento Teixeira Feyo ; Lisbonne, 1650, p. 84.—Document No. 97.

³ Ibidem, p. 80.—Document No. 98.

⁴ "Récit du naufrage du vaisseau 'S. Thomé,'" Lisbonne, 1611.—Document No. 95.

⁵ "Récit du Naufrage du Vaisseau 'S. João Baptista,' et Voyage que firent les Naufragés depuis le 33ème degré, au Cap de Bonne-Espérance, jusqu'à Sofala, en 1623 ;" Lisbonne, 1625, p. 75.—Document No. 96.

Villa Franca de Xira, marié à Mozambique et qui était allé établir les factoreries du Manhiça.¹

Nous ajouterons encore que, même pendant le dix-septième siècle, nous fortifiâmes une de ces factoreries, celle de l'île Chefine.

Pierre Duval, Géographe du Roi de France, mentionne cette factorerie alors que, écrivant à cette époque (1679) ses "Observations Géographiques sur le voyage de François Pyrard aux Indes," il dit : "Voicy ce qui en reste à la Couronne de Portugal : En Cafrerie qui est la Coste de Mono-Motapa, le chasteau de Cofala, le Village de Sena, une factorerie avec un petit fort au Cap des Corrientes² . . . Le trafic en toute la coste d'Afrique depuis le Cap de Bonne-Espérance."³

Au commencement du dix-huitième siècle, l'occupation au moyen de factoreries fut remplacée par l'occupation au moyen de forts.

Nous fûmes obligés vers cette époque d'établir des *fortifications en règle*, à cause des dispositions où semblaient être les étrangers de s'emparer de ce point ; nous parlons non-seulement des Hollandais dont nous avons démontré les intentions à la page 37 du premier mémoire, mais aussi des Anglais eux-mêmes, comme nous le ferons connaître plus bas, dans le chapitre 1 de la quatrième partie.

Au moyen des fortifications établies par nous au dix-huitième siècle, nous occupâmes toute la baie et principalement la partie *méridionale* contestée, celle qui forme l'objet du différend, c'est-à-dire, le *Tembe* et le *Mapouto*, ainsi que nous l'allons démontrer.

Section 1.—Fortifications dans le Tembe et sur les deux Rives du Fleuve du Saint-Esprit.

Notre fort du fleuve du *Saint-Esprit* se trouvait sur la rive *sud*, c'est-à-dire sur le territoire du *Tembe* ; il fut agrandi en 1755 d'après un ordre expédié en 1752 au Gouverneur-Général de Mozambique, Francisco de Mello e Castro.

Il en est fait mention par les suivants auteurs :

En 1744, Le Rouge, ingénieur et géographe du Roi de France, dans sa "Mappe-monde nouvelle," dédiée à Monseigneur le Comte de Maurepas. Cet auteur place, près de la baie, la suivante indication :—F. (fort) *Portugais*.

En 1752 Emmanuel Bowen, ingénieur du Roi d'Angleterre, dans son "Complete Atlas of distinct views of the known world," publié la même année à Londres,⁴ dans lequel, au sujet de la baie, on trouve la même indication :—(*Portuguese F.*)

En 1759, Jacob Frankens, dans le récit qu'il fit de son voyage à Lourenço Marques.⁵

Plus tard, en 1781, nous nous établîmes également sur la rive nord, territoire du régule Matolla, où nous construisîmes un nouveau fort et un village, travaux auxquels, jusqu'en 1790, fut affectée la somme de 1,000,000 francs.⁶

En 1796, pendant la guerre entre la France et le Portugal, ce fort et ce village furent détruits par les corsaires Français ; la ré-édification en fut ordonnée plus tard et confiée par le Gouverneur de Mozambique aux soins du Capitaine Luiz José qui arriva à Lourenço Marques le 7 Juin 1799 avec les troupes qu'il avait sous ses ordres.

Cependant, comme la guerre existait entre les régules Moamba et Matolla, habitant la rive nord du fleuve du *Saint-Esprit*, où se trouvait le fort détruit par les corsaires, le capitaine Luiz José préféra établir un fort provisoire dans le *Tembe*, sur la rive sud, territoire du régule Capella.⁷

Cet établissement dura jusqu'à ce que le fort et le village de la rive nord fussent rétablis, environ un an ; toutefois nous laissâmes dans le *Tembe* un post militaire avec drapeau et un détachement de soldats. Ce poste existait encore en 1818 ; le 29 Juin de cette année le Portugais Sousa Caldas y fut assassiné, dans une rixe avec les noirs de ce territoire.⁸

¹ Loc. cit., p. 80.—Document No. 99.

² Nous avons fait remarquer dans notre premier Mémoire (p. 15 note 1ère) que l'établissement de Lourenço Marques est indiqué dans les documents anciens sous le nom de "Cap des Courants"—Documents Nos. 17, 19, 20, 101, 102, 106, 114, 115, 117, 118, 120 et 126.

³ "Voyage de François Pyrard de Laval ;" Paris, 1679 ; p. 77 et suiv. ; et la traduction Portugaise de Rivara, Nova Goa, 1858, tome ii, p. 296.—Document No. 101.

⁴ Carte No. 47.

⁵ "Auszug aus Jacob Frankens unglücklichen Reise mit dem Schiffe 'der Fleis von Batavia,' über Bengalen nach Holland in dem Jahren 1756 bis 1760, enthalt eine Beschreibung von Bengalen, Rio de Lagoa und des Vorgebungs der guten Hoffnung," Leipzig, 1772, qui fait suite à la traduction Allemande du voyage de Jacques de Buequoi, "Reisen von Indien," &c., p. 302, et suiv.

⁶ Jeronymo José Nogueira de Andrade, "Descripção da Capitania de Moçambique, em 1790," Ms. de la Bibliothèque Nationale de Lisbonne, B₁².—Documents Nos. 120 et 122.

⁷ Documents Nos. 128 et 129.

Documents Nos. 132 et 133.

De manière que notre occupation du Tembe s'affirme :—

1. Au commencement du dix-huitième siècle par un fort qui fut agrandi en 1755 et transporté en 1781 sur la rive nord du fleuve du *Saint-Esprit*.

2. En 1799, par une fortification provisoire, après la destruction de ce dernier fort par les corsaires Français et jusqu'à sa réédification.

3. Par un poste militaire avec drapeau depuis 1800 jusqu'à l'arrivée du Capitaine Owen en 1822.

L'existence de notre fort du *Tembe*, sur la rive sud du *Saint-Esprit*, est également prouvée :—

1. Par l'existence de ses ruines dont au commencement de ce siècle James Horsbourg fait mention :¹ “ Vis-à-vis de cette pointe,” dit-il, “ on voit sur la rive opposée les ruines d'un fort Portugais.”

2. Par l'aveu que le Capitaine Owen, en 1823, en fit dans une lettre au Gouverneur de Lourenço Marques.²

3. Par l'aveu du Ministre d'Angleterre à Lisbonne, dans une note du 18 Mars, 1862.³

4. Par l'aveu du mémoire même (*case*) du Gouvernement Anglais (p. 7 [p. 5]).

Et comme témoignage de notre occupation et de notre possession nous fîmes placer dans le *Tembe*, en 1796, un monument dont l'existence était, en 1823, attestée par le régle de cette contrée.⁴

Le Gouvernement Anglais, dans le but d'atténuer l'effet de son aveu de notre occupation du *Tembe*, dit, dans son mémoire (p. 7 [p. 5]), que cette occupation avait été à peine consentie temporairement par les indigènes et encore moyennant le paiement d'un *cens* ou *rente foncière*.

Il a pourtant oublié de prouver :—

1. Que pour établir ces fortifications nous eussions sollicité le *consentement* des indigènes du *Tembe*.

2. Que ces indigènes nous eussent accordé une *permission temporaire d'occupation*.

3. Et que le tout se fût fait *sous la condition du paiement d'un cens ou rente foncière*.

Et comme le Gouvernement Anglais n'a produit aucune preuve, ce qui était essentiel pour détruire la force du fait qu'il avoue, son allégation n'a aucune valeur et la fausseté en devient évidente.

L'on ne pourra objecter à cela que l'aveu est *indivisible* et que si nous l'acceptons pour ce qui regarde l'occupation du *Tembe*, nous devons également l'accepter avec les restrictions qui l'accompagnent quant au caractère précaire de cette occupation.

En premier lieu, nous n'avons recouru que *ex abundanti* à l'aveu du Gouvernement Anglais, attendu que l'occupation du *Tembe* est complètement prouvée par d'autres moyens de preuve.

Cependant, en admettant même, par hypothèse, que nous n'eussions aucune preuve autre que celle qui s'appuie sur cet aveu du Gouvernement Anglais, l'objection n'aurait pas pour cela plus de valeur.

Il est hors de doute qu'en règle, l'aveu est *indivisible*; c'est un principe inscrit dans l'Article 1356 du Code Napoléon; mais cette règle, que Weber et d'autres regardent comme n'étant peut-être pas applicable à l'aveu *qualifié* et à l'aveu *complexe*, n'est nullement applicable au cas dans lequel celui qui fait l'aveu produit un fait nouveau pour en détruire l'effet, comme cela a lieu dans le cas présent alors que, dans le but d'annuler son aveu de notre occupation et de notre possession du *Tembe*, l'Angleterre prétend que cette occupation n'est que le résultat d'une concession précaire, et de même que cela aurait lieu si un débiteur, tout en avouant sa dette, alléguait une créance en sa faveur qui se compenserait avec cette dette.

Dans cette hypothèse l'aveu est divisible; c'est là un point que l'on ne saurait mettre en doute.

En droit Romain ceci était une règle courante, et nous en trouvons une application dans la loi 26, § 2 Dig. *Depos.* ainsi que nous l'indique Le Gentil :⁵ “ Bien qu'au titre ‘de confessis,’ il ne se rencontre rien sur la ‘divisibilité’ ou ‘l’indivisibilité’ des aveux, Papinien, dans une de ses sages réponses, montre que la division se

¹ “ Instructions Nautiques,” p. 367.

² Documents Nos. 41 et 70.

³ Document No. 70.

⁴ Documents Nos. 34 et 82.

Le Gentil “ Essai Historique sur les Preuves,” Paris, 1863, p. 214.

pratiquait à Rome, alors qu'un prétendu aveu renfermait des confessions et des allégations."

Dans son commentaire sur le titre "De confessis," No. 5, Voet expose cette même doctrine :

"Equidem si plura sint capita confessionis separata, quorum unum haud dependet ab altero, nihil vetat quominus divisio confessionis admittatur, et accipiat pars altera, altera rejiciatur ; sicut unam partem sententiae, quae confessioni similis, admittere potest qui succumbit, et ei adquiescere, ab altera vero appellare. Sin omnia confessione comprehensa inter se connexa et unius quasi actus contineri factum contineant, non videtur circa eundem actum admittenda separatio et proinde vel tota confessio acceptanda est, vel tota rejicienda, quum iniquum sit commoda quidem admittere, repudiare vero onera eidem cohaerentia."

Ces mêmes principes sont encore soutenus par les jurisconsultes modernes, parmi lesquels il nous suffira d'indiquer Bonnier, qui s'exprime ainsi dans son "Traité des preuves ;"¹ "Mais il doit en être autrement quand celui qui a fait l'aveu allègue, pour en détruire l'effet, un fait entièrement nouveau, par exemple une créance en sa faveur, qui se compenserait avec cette dette."

La Cour de Cassation en France s'est plusieurs fois prononcée en ce sens, en permettant de diviser l'aveu, lorsque on allègue une créance distincte pour opérer compensation de la dette avouée, et, en général, lorsqu'il s'agit de faits distincts et non connexes.²

Section 2.—Fortifications dans le Mapouto ou Unhaca.

L'existence du fort établi dans l'Unhaca est attestée au dix-huitième siècle :—

En 1759, par le Baron de Puffendorf dans son "Introduction à l'Histoire Moderne, Générale et Politique de l'Univers," édition de M. de Grâce (Paris, 1759) : "Vers l'embouchure de la Rivière de Manica on trouve le Royaume d'Inhambane. Les Portugais ont au midi un fort qu'on appelle Inhaque."³

En 1755 par D. Joseph Vaissete, dans sa "Géographie Historique, Ecclésiastique et Civile : " "Les Mahométans qui l'habitent (Sofala) sont des Arabes qui s'y sont établis avant l'arrivée des Portugais, ces derniers sont maîtres aussi de la forteresse d'Inaqua, située sur la côte."⁴

En 1761 par Nicolas de la Croix, dans sa "Géographie Moderne et Universelle : " "Inhaqua, fort aux Portugais, au midi, c'est où commence leur Gouvernement de Mozambique."⁵

En 1768 par l'Abbé Lenglet du Fresnoy, dans sa "Méthode pour étudier la Géographie :"⁶ " Ces derniers (les Portugais) ont encore sur la côte le fort d'Inhaque."

En 1772 par l'auteur de "l'Histoire Générale de l'Asie, de l'Afrique et de l'Amérique" (par M. L. A. R.) : "Les Portugais ont un autre fort nommé Inhaqua."⁷

En 1782 par Béranger dans sa suite de la Géographie de Busching : "Vers le sud les Portugais possèdent le fort d'Inhaque."⁸

En 1784, par Saint-Janvier, dans son "Atlas Universel" (2^e partie, pl. 39) publié à Venise ; "Baie de Laurent Marques ou du Saint-Esprit où est le fort Inhaque, aux Portugais."

En 1790 par H. de Combes, dans sa "Géographie Universelle :"⁹ "Inhaqua, au sud, et Kilimani (Quilimane), vers l'embouchure de la Manica, sont deux forts aux Portugais."

Enfin, l'occupation de l'Unhaca à laquelle se rapportent tous ces auteurs fut, par les ordres du Gouverneur de Mozambique, renforcée en 1781 par trente hommes commandés par le Capitaine Belchior et le Sous-Lieutenant François Mourão.¹⁰

¹ Tome i, Paris, 1862, p. 456 ; Merlin, "Questions de Droit," v. Confession § 2, No. 1.

² Rejet, 15 Mai, 1855 ; Rejet, 23 Décembre, 1835, et 6 Février, 1838.

³ Tome viii, p. 226.

⁴ Paris, 1755, tome xi, p. 255.

⁵ Paris, 1761, tome ii, p. 340, et dans la nouvelle édition de Victor Comeiras (Paris, an 9, 1800), tome ii, p. 415.

⁶ Paris, 1768, tome viii, p. 162.

⁷ Paris, 1772, tome iv, p. 786.

⁸ "Suite de la Géographie de Busching," tome x, Lausanne, 1782, p. 90.

⁹ Lausanne, 1790, tome iii, p. 565.

¹⁰ Règlement du Gouverneur de la Baie de Lourenço Marques, du 25 Novembre, 1781.—Document No. 120.

Section 3.—*Fort dans l'Île Chefine.*

Le fort de l'Île Chefine, auquel, en 1763, le Commandant de la frégate "S. José"¹ faisait allusion dans sa dépêche au Gouverneur de Mozambique qui fait l'objet du document No. 21 de notre mémoire,² existait déjà en 1726, comme on le voit sur la carte de l'ingénieur Hollandais Konink, conservée dans les archives des Pays-Bas et dont nous donnons un fac-simile.³ Le fort Portugais de l'Île Chefine est clairement indiqué sur cette carte.

C'est à ce fort, peut-être peu régulier et qui datait déjà du dix-septième siècle que, comme nous l'avons dit (p. 19 [p. 187]), faisait allusion Pierre Duval.

Chapitre II.—*Etendue de la Possession.*

La possession du Portugal s'est donc étendue à toute la baie, puisqu'elle comprenait les principaux points qui la dominent, savoir : *nord*, les factoreries et ensuite les travaux de fortification à l'embouchure du *Manhiça* et sur la rive gauche du *Saint Esprit* ; au *sud*, les factoreries et les fortifications sur le territoire du Mapouto dans l'Île de l'*Unhaca* et sur celui du *Tembe* sur la rive droite du *Saint Esprit*, et au centre de la baie la factorerie et le fort de l'Île *Chefine*.

Et toutefois pour s'assurer la possession de toute la baie, le Portugal n'avait pas besoin de la ceindre complètement de fortifications et de factoreries.

1. Parce que, quoique la possession s'acquière *corpore et animo*, le contact avec toutes les parties d'un tout n'est pas indispensable pour l'acquisition de la possession ; il suffit, comme le dit Savigny,⁴ de la *possibilité physique* d'exercer sur la chose une action personnelle et d'en écarter toute influence étrangère. Cette possibilité peut résulter de mille causes, entre autres de l'occupation d'une partie du tout.

C'était là un principe positivement consacré dans le droit Romain par le Jurisconsulte Paul dans la Loi 1 § 1 du digeste "de posses." :—"Non est enim corpore et tactu⁵ necesse apprehendere possessionem, sed etiam oculis et affectu ;" et par Ulpien dans la Loi 3, § 1 :—"Quod autem diximus et corpore et animo acquirere nos debere possessionem, non utique ita accipiendum est, ut qui fundum possidere velit omnes glebas circumnambulet ; sed sufficit quamlibet partem ejus fundi introire."

2. Parce que la doctrine même du droit civil concernant l'étendue de la possession est reçue en droit des gens, et Martens écrit avec raison :—"Une nation qui occupe un district doit être censée avoir occupé toutes les parties vacantes qui le composent ; la propriété s'étend même sur les places qu'elle laisse incultes, et sur celles dont elle permet l'usage à tous."⁶

3. Parce que, pour ce qui a spécialement trait à la baie, ce principe concernant l'étendue de la possession devait forcément être applicable, alors même que l'occupation n'eût pas compris toute la baie, comme de fait cela a eu lieu, cette même baie formant l'accès du territoire occupé par nous sur le fleuve du *Saint Esprit*, comme nous l'avons démontré dans le chapitre 3 de la 4^{ème} partie de notre premier mémoire.

Chapitre III.—*Reconnaissance de notre possession par l'Angleterre.*

L'Angleterre avoue également notre occupation, non-seulement du territoire du *Tembe* mais aussi de celui du *Mapouto* quand elle écrit dans son Mémoire (p. 9 [p. 6]) que la nation Portugaise a occupé les territoires de ces deux régules :—"The Portuguese Government had no right, save by a temporary and permissive occupation, over any part of territories of the Kings of Tembe and Mapoota."

Et dans l'espoir de détruire l'effet de cet aveu, elle ajoute que l'occupation a été *temporaire* et uniquement *permise*.

Quand même l'occupation d'une partie de la baie n'aurait été que *temporaire* (ce que nous n'admettons que comme une simple hypothèse) l'argument n'en aurait pas une plus grande valeur du moment que nous avons occupé les principaux points

¹ Document No. 117.

² Nous reproduisons textuellement cette dépêche, au Document No. 119.

³ Carte No. 2, à la fin du volume.

⁴ "De la Possession," p. 214 et suiv. ; Gustave de Dartein, "De la Possession envisagée comme moyen d'acquérir," Paris, 1862, p. 68 et suiv. ; et le remarquable livre de Charles Appleton, "De la Possession," Paris, 1871, §§ 84 et suiv., et 261 et suiv.

⁵ Les manuscrits en général disent "actu," mais la leçon "tactu," adoptée par Savigny est confirmée par les Basiliques.

⁶ "Précis du Droit des Gens Moderne de l'Europe," édit. de Vergé, Paris, 1858, tome i, § 38.

de cette même baie et que l'Angleterre ne peut prouver l'abandon et surtout l'intention de l'abandon.

Pour ce qui est de l'occupation simplement *permise* par les règles, c'est-à-dire, à titre *précaire*, dans le sens Romain du mot, voilà ce que l'Angleterre aurait dû prouver mais ce qu'elle ne peut pas faire attendu que nous avons nous-mêmes prouvé le contraire d'une manière évidente à la p. 19 et suiv [p. 187].

Chapitre IV.—*Conditions Juridiques de la Possession du Portugal.*

La possession Portugaise réunit toutes les conditions juridiques relatives à la nature et à la durée de la possession, parce qu'elle est fondée en titre, qu'elle a toujours été exercée à titre de propriété et qu'elle est publique, continue et non interrompue.

Section 1.—*Elle est fondée en Titre.*

Elle est fondée en titre parce qu'elle provient de la découverte et de l'occupation, ce qui au seizième siècle constituait un titre d'acquisition du domaine international.

Section 2.—*Elle a été exercée à Titre de Propriété.*

Elle a été exercée à titre de propriété (*animo domini*) parce que, depuis trois siècles, nous occupons comme *souverains* la Baie de Lourenço Marques, affirmant notre droit et notre souveraineté, l'appuyant d'une forteresse et de fortifications, et la défendant lorsqu'elle était attaquée.

Nous n'avons pas été détenteurs précaires ou au nom d'autrui; nous n'avons pas interverti notre titre de possession. Si nous avions occupé la baie à titre de protection donnée aux règles, ou si nous l'avions acceptée comme hypothèque affectée à l'acquittement d'une obligation, ainsi que le firent les Vénitiens qui occupèrent Mantoue pour garantir les quatre millions prêtés à Henri de Gonzague, Duc de Mantoue, ou ainsi qu'en usa le dernier Duc de Bourgogne, Charles-le-Téméraire, recevant en hypothèque de l'Empereur Frédéric III l'Alsace et une partie de la Forêt-Noire, ou bien comme la Suède occupa Halland, Holm, Halmstadt et Warbourg, en vertu du Traité de Brömsebro du 31 Août 1645, en garantie de l'exemption accordée par le Roi de Danemark aux navires Suédois dans le passage des détroits de Sund et de Belt¹ nous ne pourrions invoquer cette occupation ni nous en prévaloir; mais notre possession de Lourenço Marques a toujours été exercée à titre de *souveraineté*.

L'*animus domini* se révèle de la manière la plus évidente dans tous les faits que nous avons déjà exposés dans le premier mémoire (3ème partie, chapitre 2) comme autant de manifestations de notre souveraineté; tels sont:

1. Le *titre* pris immédiatement par les Rois de Portugal de *suzerains* des contrées dans lesquelles la Baie de Lourenço Marques se trouve comprise, titre qu'ils firent graver sur la monnaie destinée à ces contrées, et dont la légende portait: *Rex Portugalliae et Dominus Orientalis Africae*, fait certifié par l'Anglais Henry Salt: *J'ai vu (dit-il) une piastre d'argent Portugaise portant cette légende.*²

2. *L'occupation avec fortifications.*

L'*exclusif* du commerce que, conformément aux idées de l'époque, nous y avons exercé jusqu'au moment (1853) où nous permîmes ce commerce aux étrangers qui ne pouvaient s'y livrer avant cette date, à l'exception des Anglais et des Hollandais auxquels des traités antérieurs à cette époque assuraient la faculté de ce trafic.

4. Le *châtiment* infligé aux tribus rebelles.

5. *L'expulsion des étrangers* qui tentèrent de s'établir dans la baie et voulurent ainsi abuser de la faculté d'y faire le commerce, comme cela eut lieu avec les Hollandais et, en 1781, avec les Autrichiens.

6. *L'expulsion des navires étrangers* qui violaient les conditions de leur admission ou qui, comme les Anglais essayèrent souvent de le faire, voulaient soulever contre nous les indigènes; les deux faits suivants sont présentés comme exemples de ce que nous avançons:

(a). En Juillet 1787, le navire Hollandais "la Perle," vint de Ceylon à Lourenço

¹ Le Comte de Garden, "Répertoire Diplomatique," Paris, 1861, p. 332 et suivante.—Comme exemples d'hypothèques en droit des gens on peut citer l'armistice du 20 Septembre, 1800, dans le "Recueil" de Martens, tom. vii, p. 410.—Guther, "Europaisches Völkerrechts in Friedenszeiten," Altenbourg, 1787, tom. ii, p. 153; Heffter, "Droit des Gens," § 71.

² "Voyage en Abyssinie," traduction par P. F. Henry, Paris, 1816, tom. i, p. 91, note 1.

Marques. Le capitaine de ce navire, C. Int Anker, jugea que pour se procurer des vivres il pouvait traiter directement avec les Cafres de Matolla et Capella, et leur donner des étoffes en échange des denrées dont il avait besoin ; il alla même jusqu'à établir des tentes sur le territoire du Tembe. Ce procédé étant en opposition avec les lois alors en vigueur et suivants lesquelles les navires destinés au commerce de la baie devaient *préalablement* se rendre à Mozambique pour y acquitter les droits, comme cela se trouvait clairement établi dans le § 19 des instructions du 9 Mai 1761,¹ le capitaine se vit contraint par le Gouverneur soit de se soumettre à cette règle, soit de partir immédiatement, ce qu'il fit tout en écrivant au Gouverneur et Capitaine-Général de Mozambique une lettre humiliante pour lui et où il cherchait à excuser sa conduite craignant probablement qu'elle n'eût des suites plus graves.²

Le Gouvernement des Pays-Bas ne présenta aucune réclamation au sujet de cette affaire.

(b) Un trois-mâts Anglais de Bombay, sous le commandement de Mr. Ramsden, étant venu dans la Baie de Lourenço Marques en 1815, avec un chargement considérable de marchandises pour y faire le commerce, non-seulement s'abstint d'aller auparavant à Mozambique pour y acquitter les droits, suivant la loi, mais encore reçut à son bord des déserteurs de notre forteresse, et s'employa à exciter la rébellion des Cafres contre nous.

Il s'ensuivit que ce navire fut chassé de la baie à coups de canon, fait dont le Gouverneur de Mozambique rendit compte à celui de Bombay. L'Angleterre n'exigea aucune satisfaction au sujet de cet acte énergique de notre part et même le Gouverneur de Bombay, Evan Nepear, présenta sur cette affaire au Gouverneur de Mozambique les plus satisfaisantes et les plus gracieuses excuses.³

7. L'autorité que nous exerçons sur toute la baie, en réglant l'émigration des Cafres qui sont engagés pour aller travailler à Port-Natal, en exigeant des passeports à leur départ et en veillant à ce que ces engagements ne deviennent pas par la suite une espèce de traite déguisée. L'Angleterre reconnaît ce fait, elle n'a pas réclamé contre et elle a même cherché à s'entendre avec nos autorités afin d'obtenir de plus grandes facilités pour ces engagements, ainsi qu'on peut le voir dans le rapport de Frédéric Elton, Consul Anglais à Zanzibar, daté du 20 Mars, 1873.⁴

Section 3.—*Elle est publique.*

Notre possession a été *publique* car elle s'est toujours manifestée par des actes publics et connus de tous.

Et elle a toujours eu la publicité, non-seulement *relative*, par rapport à l'Angleterre, mais encore *absolue*, par rapport à toutes les autres nations.

Section 4.—*Elle est continue et non interrompue.*

Elle a été *continue* et non constituée par des actes passagers, intermittents ou transitoires, mais bien par une occupation *permanente* pendant trois siècles et par l'exercice constant de notre *souveraineté* dans toute la baie sans aucun acte d'abandon.

La continuité de la possession peut se présenter sous trois différents aspects.

La première idée qui s'offre à l'intelligence dans l'ordre de conception est celle d'une continuité de tous les instants, relation active et perpétuelle entre l'homme et la chose ; mais cette notion, la plus naturelle pour quiconque n'a pas encore dégagé la possession de son origine, ne tarde pas à être abandonnée. Une possession toujours active ne se rencontre nulle part dans la réalité pratique.

Alors apparaît un autre aspect de la continuité, fondé sur cette considération que la possession doit être l'image de l'exercice du droit de propriété. La possession devient, dans ce système, la jouissance régulière et normale de la chose ; et l'intention suffit pour lier entre eux les différents actes de jouissance et en faire une possession continue.

Mais l'esprit ne s'arrête pas là, et dégageant de plus en plus l'élément intentionnel de la possession, il s'élève à une troisième notion de la continuité. Dans la seconde idée que nous venons d'indiquer, l'intention ne suffit que dans les intervalles où l'usage de la chose ne comporte pas un nouveau fait de possession ; là où ce fait peut se produire, elle ne saurait en tenir lieu, et si le possesseur néglige de l'accomplir, sa

¹ Document No. 116.

² Documents Nos. 123 et 124.

³ Documents Nos. 130 et 131.

⁴ Document No. 137.

possession cesse d'être continue. Au contraire dans la troisième phase de l'idée de continuité, l'intention tient lieu des faits extérieurs une fois la possession acquise.

De manière que, dans ce troisième système, la continuité existe tant qu'il n'y a pas d'*abandon* manifesté par l'*animus contrarius*; et c'est pour cela qu'en consultant les écrits des jurisconsultes Romains, nous voyons qu'ils ne traitent pas séparément de la continuité de la possession de la manière de la conserver, mais qu'ils identifient ces deux choses.

Cette dernière notion de continuité, admise par le droit Romain,¹ a été adoptée par la jurisprudence Française ancienne² et moderne,³ malgré les efforts de Marcadé⁴ pour faire prévaloir la seconde notion.

La possession du Portugal dans la baie est continue, soit que nous l'envisagions sous le point de vue du second ou sous celui du troisième système.

Notre possession est, enfin, *non interrompue*, attendu qu'elle n'a subi aucune interruption soit naturelle soit civile.

De manière que la possession du Portugal réunit toutes les conditions juridiques et n'est atteinte d'aucun vice.

En réclamant le respect du droit qui en résulte, le Portugal s'appuie sur une possession juste et qualifiée et ne prétend pas, comme le Chérée de Térence le disait à Parménon, l'obtenir à tout prix malgré les vices les plus évidents (Eunuch. II, 4):

"Hanc tu mihi, vel vi, vel clam, vel precario,
Fac tradas; mea nil refert dum potior modo."

Chapitre V.—Conservation de notre Possession.

Et que l'on ne vienne pas dire, pour contester notre possession, que nous n'avons pas *actuellement* des établissements dans toute la partie sud de la baie (Tembe et Mapouto).

En premier lieu, en acceptant la discussion sur le terrain de la *possession matérielle* du territoire, nous répondrons que, pour conserver la possession de toute la baie, il n'était point nécessaire de la couvrir, *tout entière*, d'établissements :

1. Parce que la possession ne s'exerce pas seulement au moyen d'établissements, mais aussi par l'exploitation des propriétés, suivant leur destination; or, abstraction faite des établissements, le Portugal a exercé sa possession dans toute la partie sud de la baie par la chasse à l'éléphant sur le territoire de Tembe et de Mapouto, pendant la saison propice, si bien que les chasseurs Portugais ont même poussé leurs excursions jusqu'aux terres de Panda, Roi des Zoulous,⁵ possession qui, selon le droit, ne s'exerce pas par des actes quotidiens, suivant la doctrine de Paul dans la Loi 3, § 11, Dig. de *acquir. posses.* : "Saltus hibernos, æstivosque animo possidemus, quamvis eos certis temporibus relinquamus."

2. Parce que, suivant la doctrine de Dioclétien et de Maximien, dans la const. 4, Cod. de *acquir. posses.* : "Licet possessio nudo animo adquiri non possit, tamen solo animo retineri potest . . . ;" d'où ils concluent : "Si ergo prædiorum desertam possessionem non delinquendi affectione, transacto tempore non coluisti, sed . . . culturam eorum distulisti, præjudicium ex transmissi temporis injuria generari non potest;" principe qui est passé dans la jurisprudence moderne et qui est enseigné par Troplong : "La possession n'a pas besoin pour se conserver d'un fait corporel extérieur, l'intention suffit . . . elle persévère tant qu'une volonté contraire ne vient pas la détruire."⁶

C'est en effet un principe de droit en matière possessoire, admis par la plus grande partie des auteurs Français et Belges, anciens et modernes, que celui qui démontre avoir possédé anciennement est censé avoir possédé jusqu'au moment actuel, c'est-à-dire que la possession se conserve *solo animo* tant et aussi longtemps qu'il n'existe aucun indice signalant l'intention expresse ou tacite de l'abdiquer.

C'était dans ce sens que Stockmans écrivait : "Antiqua possessio quæ non ostenditur amissa creditur durare;" et que les anciens auteurs Français disaient aussi : "Olim possessor, hodie possessor præsumitur, et ex possessione de præterito arguitur

¹ Machelard, "Textes de Droit Romain sur la Possession, les hypothèques, &c." Paris, 1856, p. 61 et suiv.; Beauvois, "De la Possession en Droit Romain, &c.," Paris, 1858, p. 113 et suiv.

² Dunod, "Prescript.," p. 17; Domat. liv. iii, tome vii, sect. 4, § 7.

³ Louis Marinier, "Des Actions Possessoires," (thèse de Doctorat), Paris, 1855, p. 53; Appleton, "De la Possession," Paris, 1873, p. 241.

⁴ "Prescript." Articles 2229 à 2234, No. 1.

⁵ Documents No. 91 et Annexes.

⁶ "De la Prescription," No. 263.

possessio de præsenti et medii temporis, nisi contrarium probetur. De præterito ad præsens præsumptio inducitur."¹

La possession se conserve *solo animo* tant qu'elle ne se perd pas, et pour qu'on la considère perdue il faut que la perte ait lieu non-seulement quant au *corpus*, mais aussi quant à l'*animus*.

L'*animus* comme base de la perte de possession, comprend tous les cas possibles d'une renonciation expresse ou tacite, comme sont la renonciation translatrice ou la tradition réelle, l'abandon pur et simple, etc.²

Et comme la renonciation d'où découle l'*animus contrarius* doit être expresse ou tacite, elle ne peut être présumée. Ainsi l'intention de l'abandon ne pourra résulter de simples actes d'omission ou du simple fait du non-usage; c'est à ces cas que le Code de Justinien appliquait aussi la maxime: *Possessio solo animo retinetur*.³

La question de savoir s'il y a perte de la possession par l'interruption dépend en grande partie des faits accessoires qui se groupent autour de la non-jouissance et qui font souvent entrevoir tacitement l'intention du possesseur de ne plus vouloir posséder; tout résulte des circonstances, de la nature du territoire ou des droits qui font l'objet de la possession, en un mot c'est une question d'intention abandonnée au pouvoir discrétionnaire du juge.⁴

De la part du Portugal, toutefois, il est avéré qu'il n'y eut jamais abandon ou renonciation expresse ou tacite, attendu qu'il a occupé les principaux points de la baie et vu que, sur d'autres points où il n'a pas aujourd'hui de travaux de fortifications, on voit du moins les traces des fortifications anciennes.

Cette doctrine est aujourd'hui reconnue en droit des gens comme elle l'a toujours été en droit civil, ainsi que le dit Klüber: "Le droit de propriété de l'Etat peut, d'après le droit des gens, continuer à exister sans que l'Etat continue la possession corporelle. Il suffit qu'il existe un signe qui dit que la chose n'est ni *res nullius* ni délaissée;"⁵ et cet écrivain n'a fait que reproduire les doctrines professées antérieurement par Christian Thomasius,⁶ Groth, Titius⁷ et Hanker.⁸

3. Parce que, d'après le droit des gens, il n'est pas nécessaire, pour conserver le domaine et la possession, de couvrir toutes les côtes de batteries permanentes et de forteresses; on peut citer à ce sujet ce qu'écrivait Hautefeuille: "Il est important de remarquer que, pour conserver le domaine . . . il n'est pas nécessaire que le peuple riverain tienne ses côtes hérissées de batteries fixes et permanentes, de tours, de forteresses, que son canon soit incessamment prêt à battre toutes les parties de cette mer. L'absence de ces moyens de coercition, le désarmement, soit temporaire, soit même perpétuel d'une partie des rivages de la mer, car il existe dans tous les pays certains points des côtes qui n'ont jamais été armés, ne nuit en rien au droit lui-même."⁹

D'où il résulte que, quand même le Portugal n'aurait pas aujourd'hui un seul établissement dans la partie sud de la baie (ce qui n'est pas) il n'en conserverait pas moins *solo animo* sa possession.

4. Parce que la possession se conserve également au moyen de vestiges, car ils prouvent sa continuité surtout lorsque la volonté du non abandon est manifeste; et ces vestiges sont encore bien visible dans le *Tembe*, dans les ruines de notre premier fort dont l'existence n'est pas contestée, et dans le monument que nous avons élevé sur ce territoire en 1796.

En effet, suivant Troplong,¹⁰ la possession et sa continuité sont prouvées par des vestiges et des restes de constructions qui auraient jadis servi à la défendre, parce que les vestiges sont en quelque sorte des actes *permanents* et *continus* qui attestent l'existence du droit que l'on possède et sont autant de preuves que l'on n'abandonne pas ce droit.

C'est la même doctrine qui, longtemps auparavant, fut soutenue en France par

¹ Dunod, "Prescript.," p. 18; Lelièvre, "Coutumes de Namurs," p. 122; Stockmans, "Décis.," 143, No. 4; Dalloz, "Nouv. Rep." v° Act. posses. No. 238; Belime, No. 424; Léon Wodon, "Traité de la Possession," Bruxelles, 1866, tome i, p. 303 et suiv.

² Pothier, "Posses.," No. 66 et suiv.; Troplong, "Prescription," No. 271; Mullenbruch, "Doctrina Pandectarum," § 241; Molitor, "Posses.," No. 49.

³ Pothier, No. 55; Troplong, No. 550; Vazeille, No. 182; Savigny, § 32; L. 3, § 11, Dig. "De acq. Posses.," L. 4, Cod. "De Acquir. et Retin. Posses."

⁴ Belime, "Posses.," Nos. 103 et 164; Dalloz, "Nouv. Repert." v° "Act. Posses.," Nos. 254 et suiv.

⁵ "Droit des Gens Moderne de l'Europe," édit de Ott, Paris, 1861, § 126, not. (b).

⁶ Not. la Ulr. Huber, "De Jure Civitatis," lib. ii, sect. 4, chap. ii, No. 43.

⁷ "Diss. de Dominio in rebus occupatis ultra Possessionem durante," Leipzig, 1704.

⁸ "Rechte und Freiheiten des Handels," Hambourg, 1782, § 17.

⁹ "Des Droits et des Devoirs des Neutres," 3e éd., Paris, 1868, tome i, p. 58.

¹⁰ "De la Prescription," à l'Article 2,229 du Code Français, Nos. 343 et 550; Merlin, "Répert.," v. Prescription, sect. 1ère, § 5, Art. 3, No. 3; Aubry et Rau, sur Zachariae, tome ii, p. 78, note 23; Roux de Bretagne, "Traité de la Prescription," Paris, 1861, tome i, p. 226.

D'Argentre :¹ "Per signa enim talia retinetur juris possessio: per signum enim retinetur signatum. Sunt enim isto actus permanentes et ideo continui Quare consulunt auctores scolastici ut dirutis aedificiis, quam maxime pali, ridicæ et vestigia conservantur; quia in talibus consistit et conservatur possessio Quare mancante signo, nemo libertatem contra habentem præscribit, propter retentionem possessionis in signo permanente."

5. Parce que la possession, à l'égard du territoire de Mapouto, dont fait partie l'île de l'Unhaca, est prouvée par le fait de notre sortie de l'île, effectuée uniquement pour montrer notre respect envers l'arbitrage, fait qui démontre l'existence de la possession et de l'occupation antérieure.

Mais la discussion doit être principalement envisagée sous le point de vue de la *souveraineté*, qui est un droit, et, par conséquent, comme *possession de driots*, et dans ce cas nous répondrons :—

1. Que le Portugal a exercé sa souveraineté sur *toute* la baie, y compris les territoires de *Tembe* et de *Mapouto*, chaque fois qu'il a eu besoin de la manifester, ainsi que cela a été démontré dans le chapitre 3 de la troisième partie du premier Mémoire.

2. Que selon les principes de droit consacrés par le Président Fabre et plus récemment, par Troplong, la continuité de la possession des droits s'affirme par des actes réitérés de temps en temps, suivant la nécessité que nous avons de faire usage de ces droits.

"Jurium incorporalium quasi possessio (dit le premier²) in actibus discontinuis et inducitur et probatur per duos actus uniformes et unus actus potest sufficere, si toto tempore quod hominum memoriam complectitur, non nisi semel casus evererit, in quo uti jure suo actor potuerit, sive a quibus causam habet."

"Des actes réitérés de temps en temps (écrit le second³) à certains intervalles inégaux, conformément aux besoins de l'usager, suffiraient pour établir juridiquement la continuité."

3. Que ces mêmes principes sont reconnus par la Cour de Cassation de France, dans un Arrêt du 5 Juin, 1839 : "La possession (y est-il dit) s'exerce suivant la nature de l'objet auquel elle s'applique, et celle qui ne peut se manifester qu'à de certains intervalles par des faits distincts et plus ou moins séparés, n'en est pas moins continue par cela seul qu'elle a été exercée dans toutes les occasions et à tous les moments où elle devait l'être, et quelle n'a pas été interrompue, soit par la cessation absolue d'actes, soit par des actes contraires."⁴

TITRE III.

Arguments contre la Reconnaissance des Régules.

Laisant sans réponse tout ce que nous avons écrit au Chapitre VI, de la quatrième partie de notre premier Mémoire, l'Angleterre oppose à la reconnaissance de nos droits par les règles du *Tembe* et du *Mapouto* les arguments qui suivent :

Section 1.—Quant au Régule du *Tembe*.

1. Que le régule du *Tembe* se considérât si peu dépendant et était de même considéré par nous, qu'il nous fit, en 1794, la donation, que nous acceptâmes, d'une partie de son territoire, donation à laquelle nous faisons appel à la page 74 [p. 85] de notre premier Mémoire.⁵

La réponse est facile. La *souveraineté* d'un territoire et la *propriété* de ce territoire sont deux choses bien distinctes. Le Portugal (ainsi que cela a été démontré dans la deuxième partie, Chapitre II de ce Mémoire) tout en acquérant la souveraineté du territoire colonial, en a toujours laissé la *propriété* aux indigènes qui pouvaient en disposer selon leur bon plaisir.

Il devient donc fort naturel que le Portugal, tout en ayant depuis plusieurs siècles la *souveraineté* du *Tembe*, eût accepté en 1794 une donation de la *propriété* d'une partie de ce territoire; de la même manière qu'il ne serait nullement étrange que la

¹ "Sur Bretagne," Art. 368, pp. 1549 et 1550.

² Cod., Liv. vii, tit. vii, def. iii.

³ "De la Prescription," No. 339.

⁴ Dalloz, 39, 1, 237; Le Roux de Bretagne, "Nouveau Traité de la Prescription en Matière Civile." Paris, 1869, tome i, p. 221 et suiv.

⁵ "Case," p. 8 et suiv. [p. 6].

Reine Victoria, souveraine de l'Angleterre, acceptât de la main d'un de ses sujets la donation d'une *propriété* située sur le territoire Britannique.

L'Angleterre ajoute encore :¹

2. Qu'à la reconnaissance de la souveraineté Portugaise le 20 Octobre, 1823, par le régule du Tembe, à l'occasion de son installation au pouvoir,² s'oppose le manque d'authenticité de cet acte :

(a) Parce que, si en Mars de cette année le régule figurait déjà, dans le Traité d'Owen, comme étant dans l'exercice du pouvoir par la mort de son grand-père, comment se fait-il que six mois après, le 20 Octobre, il allât demander au fort Portugais la confirmation de son titre et y rendre hommage afin d'être reconnu ?

(b) Parce que, tandis que le Traité de Mars est *signé par lui* la déclaration et la reconnaissance du 20 Octobre ne sont signées que par des témoins.

(c) Que le prétendu vasselage avoué dans ces deux documents se trouve en contradiction avec la donation partielle du 10 Novembre, 1794, qui suppose l'indépendance des tribus du Tembe.

Le *premier* doute n'a aucune valeur puisque déjà, dans le deuxième chapitre de la troisième partie de notre premier Mémoire, il a été dit et confirmé par le témoignage même du Capitaine Owen, que le vieux Capella était mort en Septembre 1822, et qu'il était d'usage dans le Tembe que le nouveau régule fût proclamé *une année après la mort* de son prédécesseur, ce qui explique pourquoi son petit-fils alla, suivant la coutume, prendre son investiture et prêter serment d'obéissance dans le fort Portugais, en Octobre 1823, c'est-à-dire justement une année plus tard.

Ce qui est évidemment frappé au coin de la fausseté, c'est que, par *complaisance* envers Owen et uniquement pour que cette cession pût lui être faite, les lois ou les usages du pays eussent été violés par l'entrée au pouvoir, dès le mois de Mars, du nouveau régule !

Le *second* argument n'a aucune valeur :

1. Parce qu'il est fort naturel que le régule d'une tribue à moitié barbare ne sût pas écrire et, de fait, il ne le savait pas :

2. Parce que, pour que l'argument pût avoir quelque valeur, il aurait fallu que l'Angleterre prouvât que le régule savait écrire, ce qu'elle ne prouve pas, ce qu'elle ne peut prouver comme elle y est obligée suivant la règle formulée par le jurisconsulte Paul dans la Loi 2 Dig. "de Probat." : "Ei incumbit probatio qui dicit, non qui negat," et reproduite sous une autre forme dans le rescrit de Dioclétien et de Maximien qui constitue la Loi 23 du Code "de Probat." : "Actor, quod adseverat probare se non posse profitendo, reum necessitate monstrandi contrarium non adstringit, quum per rerum naturum factum negantis probatio nulla sit."

C'est en effet un principe inébranlable en matière de preuves, comme le dit Bonnier³ que "la preuve incombe à celui qui émet une proposition, et non pas à celui qui se contente de la dénier."

Le *troisième* argument n'a pas de valeur parce que, comme nous l'avons déjà fait remarquer, la donation de Capella en 1794 ne prouve rien contre son vasselage ni contre la souveraineté du Portugal. Comme cette souveraineté n'a jamais impliqué pour les indigènes la privation de leur territoire, Capella, quoique notre vassal, pouvait donner ou vendre au Portugal une terre quelconque lui appartenant, de même qu'un sujet Anglais peut faire donation d'une sienne propriété au Gouvernement de son pays.

Ceci est élémentaire, et Bluntschli, dans son "Droit International codifié,"⁴ l'enseigne à ceux qui sont dans l'ignorance sur ce point : "La souveraineté territoriale n'implique point la propriété du sol."

Section 2.—Quant au Régule du Mapouto.

A la reconnaissance de notre droit par le régule du Mapouto, l'Angleterre oppose ce qui suit :⁵ "Que si le régule, à la date de cette reconnaissance, le 20 Octobre, 1823, s'était déclaré sujet du Portugal, c'est que jusqu'à ce moment il avait été indépendant !"

Cet argument n'offre aucun sérieux. Le régule en faisant cette déclaration n'a établi aucun fait *nouveau* ; il a simplement confirmé et ratifié son *très ancien* vasselage à la Couronne de Portugal.

¹ "Case," p. 11 [p. 8].

² Document No. 33.

³ "Traité Théorique et Pratique des Preuves," 3e éd., Paris, 1862, p. 42.

⁴ Paris, 1874, § 277, p. 169.

⁵ "Case," p. 10 et suiv. [p. 8].

Section 3.—*Nouveaux faits à l'appui de la Reconnaissance et du Vasselage des deux Régules.*

L'Angleterre a ainsi laissé subsister tous les arguments basés sur la reconnaissance des règles mêmes; arguments qui font l'objet du Chapitre VI de notre premier Mémoire; et auquel nous joignons encore les faits suivants:—

1. Ce furent les règles qui, en 1727, s'entendirent avec nous pour faire abandonner le commerce de la baie aux Hollandais, dont, par suite de cette entente, la factorerie fut détruite et qui furent forcés de quitter, en 1730, ce point où, suivant les idées alors en vigueur, nous voulions avoir l'exclusif du commerce. Dans ce but, les fils des deux règles de la baie se rendirent, en Mai 1727, à Mozambique pour s'y entendre, avec le Gouverneur Antoine Cardim Froes; de cette conférence résulta la destruction de la factorerie des Hollandais et leur abandon du commerce de cette baie.¹

2. Ces règles étaient, en leur qualité de *vassaux* du Portugal, chargés de la police fiscale et douanière dans leurs districts. Voilà pourquoi ils avaient le titre de *Guardas môres*; c'est aussi pour ce motif que, en 1763, il leur fut envoyé des copies des passeports royaux Portugais afin qu'ils pussent vérifier si en effet les navires nationaux ou étrangers se trouvaient munis de ces passeports, dans la forme voulue, ainsi que cela fut ordonné dans les instructions du 2 Avril, 1763.²

3. Ces règles, soumis à notre influence, chassèrent les corsaires Français qui, en 1796, pendant la guerre, avaient détruit l'établissement Portugais; ce fait est avoué par l'Anglais Henry Salt, dans son "Voyage en Abyssinie:"³ "L'établissement situé le plus au sud est celui du Cap Correntes,⁴ où il y a un petit fort qui a été pris par les Français; mais ceux-ci ont été bientôt forcés de l'abandonner par les naturels du pays soumis à l'influence des Portugais."

4. A l'occasion du différend survenu en 1870 entre les deux règles de *Mapouto* et du *Tembe*, celui-ci, craignant la colère du premier, vint, en sa qualité de notre vassal, chercher un refuge dans le fort de Lourenço Marques, et le règle de Mapouto, ayant demandé que son ennemi lui fût livré, se soumit sans murmurer au refus de notre Gouverneur.⁵

5. Enfin, le 1^{er} Avril, 1870, le règle de *Mapouto* céda à la Couronne de Portugal la propriété de l'île de l'Unhaca, tout en reconnaissant d'ailleurs que la souveraineté en appartenait depuis des siècles à la même Couronne.⁶

TITRE IV.

Arguments contre la Reconnaissance par les Nations de l'Europe.

L'Angleterre garde le silence sur les arguments déduits, au Chapitre VII, partie 4 de notre Mémoire, de la reconnaissance de notre droit sur toute la Baie de Lourenço Marques par les écrivains Français, Suisses, Allemands, Italiens, et Anglais, et par les Gouvernements de l'Europe, et elle se borne à vouloir détruire l'argument également déduit, dans le même chapitre, des cartes géographiques.

Chapitre I.—*Deux Objections de l'Angleterre contre l'Argument déduit des Cartes Géographiques; Réponse à ces Objections.*

L'Angleterre oppose ce qui suit à l'argument tiré des cartes géographiques en faveur du Portugal.⁷

1. Que ce nom de Lourenço Marques qui, sur les cartes géographiques, est donnée à la baie, vient, ou du premier navigateur qui en fit la découverte ou du fort de ce nom que nous y possédons, et ne prouve nullement notre souveraineté sur toute cette baie.

2. Que le fait de ce que la baie se trouve indiquée sur les cartes comme entière-

¹ Lettre de Antoine Cardim Froes, d'Août 1727, au Vice-Roi de l'Inde, Jean de Saldanha da Gama, et Instructions du 12 Mai, 1740, au Marquis de Lourical. Document No. 106.

² Document No. 117.

³ "Voyage en Abyssinie," trad. par P. F. Henry, Paris, 1816, tome i, p. 90.

⁴ De même que les anciens écrivains et les documents Portugais, Salt désigne sous le nom de Cap Correntes l'établissement Portugais de Lourenço Marques.

⁵ Document No. 136.

⁶ Document No. 135.

⁷ "Case," p. 7 [p. 5].

ment comprise dans le territoire Portugais ne prouve rien, attendu que l'état réel de ces contrées était encore récemment peu connu, et d'un intérêt fort insignifiant pour les nations de l'Europe.

Le Portugal n'a jamais présenté ce nom de la baie consacré sur les cartes géographiques comme une preuve de la propriété de cette même baie ; un tel argument eût été absurde.

Mais ce que le Portugal présente comme une *reconnaissance de son droit*, c'est le fait (avoué par l'Angleterre) de ce que sur d'innombrables cartes et ouvrages géographiques, *son droit*, depuis le dernier siècle, "se trouve positivement reconnu jusqu'à l'extrémité sud de la baie, en y comprenant l'île et la presqu'île de l'Unhaca, et de ce qu'il y est expressément déclaré que, à partir de ce point extrême vers le nord, commence la province ou Gouvernement Portugais de Mozambique."

C'est un bien déplorable expédient que celui auquel l'Angleterre a recours, lorsqu'elle allègue que cette contrée a été jusqu'à présent peu connue ou peu explorée, ou qu'elle n'avait qu'une faible importance.

La baie *n'était pas*, comme le prétend le mémoire Anglais, *peu connue*, puisque depuis le seizième siècle, elle fut connue et explorée par les Portugais, puisque, à partir du dix-septième siècle, elle fut également connue et visitée par les Hollandais et que, depuis la fin du dix-septième et pendant tout le dix-huitième siècle, elle fut fréquentée par les Français, les Anglais et enfin par les Américains.

Ceci est un fait incontestable qui ressort de l'examen des cartes et qui n'a échappé ni ne pouvait échapper au Professeur Kiepert dans sa carte comparée de la cartographie critique de l'Afrique à partir des travaux d'Anville en 1749, et publiée en Avril, 1873, à Berlin, par la Société Géographique, sous le titre : "Zur Entdeckungsgeschichte des Inneren von Africa."¹

C'est pourquoi, non-seulement la baie est indiquée exactement sur les cartes géographiques, mais encore y est montrée comme faisant partie des possessions Portugaises dans l'Afrique Australe, ainsi que cela a été péremptoirement démontré à la page 78 [p. 87] de notre mémoire et ainsi que cela sera encore confirmé au chapitre suivant de la présente réplique.

Le mémoire Anglais prétend que les cartes méritent peu de crédit attendu que la "baie n'avait qu'une faible importance pour les nations de l'Europe : " la réponse à une semblable assertion se trouve dans les tentatives que firent pour s'y établir les Hollandais, les Autrichiens, et les Anglais eux-mêmes depuis les dernières années du dix-septième siècle et pendant le dix-huitième, ainsi que nous le ferons voir dans le chapitre 1 de la quatrième partie.

Chapitre II.—Nouveaux Arguments tirés des Cartes Géographiques et des Ecrivains en faveur du Portugal.

Au témoignage des auteurs étrangers qui reconnaissent notre droit à toute la baie et qui la considèrent, en y comprenant la presqu'île de l'Unhaca, comme le commencement de notre province de Mozambique, auteurs que nous avons indiqués aux pages 78 et suivantes de notre premier Mémoire, nous allons joindre l'opinion des suivants géographes :

Section 1.—Cartes et Auteurs Hollandais.

Parmi les Hollandais :

1. Le célèbre Gérard Mercator, dans son "Atlas, sive geographicæ meditationes," publié à Duisbourg en 1595 et réimprimé avec additions de J. Hondius à Amsterdam en 1607, 1611, 1623, 1630, &c., regarde toute la côte de Lourenço Marques comme territoire Portugais, compris sous la désignation *Lusitanis*.

2. Josse Hondt (*Hontius*) en agit de même dans son "Orbis terrarum descriptio geographica," Amsterdam, 1597, et dans ses éditions corrigées et augmentées de Gérard Mercator, car il indique toute cette côte (*Lusitanis*) comme Portugaise.

3. Guillaume Blaeuw, savant remarquable par ses travaux géographiques, ami intime et élève de Tycho-Brahé, désigne toute cette côte sous le nom Portugais de *Costa dos Cafres* et déclare qu'elle est Portugaise (*Lusitanis*) dans son "Theatrum mundi," publié à Amsterdam, après sa mort, de 1663 à 1667.

4. Olfert Dapper, dans sa description de l'Afrique, publiée à Amsterdam en 1668, et sur la carte de l'Afrique qui accompagne cet ouvrage, ("Africæ accurata tabula,")

¹ Voir cette carte (amplifiée) à la fin de ce volume, et celle de Perestrello sous le No. 4.

dressée par Jacob Meursius, désigne toute cette côte sous le nom de *Cafraria Lusitanis*.¹

5. Jean Luyts dans son "Introductio ad geographiam novam et veterem" (Utrecht 1692) en agit de même.

Section 2.—*Cartes et écrivains Allemands.*

Parmi les Allemands nous indiquerons encore :

Johann Mathias Haas (*Hasius*), célèbre mathématicien et géographe qui, sur la carte annexée à son "Historia Universalis politicæ Idea, publiée à Nuremberg en 1743, met sur l'emplacement de l'Unhaca la suivante indication où il déclare que là commence notre province de Mozambique : "Inhacua, initium Præfecturæ Portugallensis Mozambique."

Section 3.—*Cartes et écrivains Italiens.*

Parmi les Italiens nous signalerons aussi :

La "Carta geografica del Congo o Bassia Guinea della Cafraria e del Monomotapa" jointe au tome 26 de l'ouvrage "Lo stato presente di tutti paesi e popoli del mondo," publié à Venise en 1766 par Giambatista Albrizzi et sur laquelle on trouve la note suivante placée à côté de la presqu'île et de l'île de l'Unhaca : "Inhaqua dove comincia il Governo di Mozzambico," note par laquelle il est ainsi reconnu que le Gouvernement de Mozambique commence au sud, sur ce point de l'Unhaca qui constitue la côte méridionale de la baie.

Section 4.—*Cartes et écrivains Espagnols.*

Parmi les Espagnols nous indiquerons :

1. Les auteurs du "Diccionario Geografico Universal," publié à Barcelone en 1832, qui affirment le même fait quand ils disent, au tome v, p. 571 : "La baie de Lorenzo Marques ou Lagoa peut être considérée comme le point de départ de la province Portugaise de Mozambique."

2. Don Pablo Alabern, dans son "Mapa de Africa," publié également à Barcelone en 1834, déclare encore que la baie de Lourenço Marques ainsi que la presqu'île de l'Unhaca forment l'extrémité sud de la Province Portugaise de Mozambique.

Section 5.—*Cartes et écrivains Français et Belges.*

Aux écrivains Français et Belges déjà cités nous ajouterons les suivants :

1. Nicolas de la Croix, dans sa "Géographie Moderne et Universelle" (Paris 1761) : "Inhaqua, fort aux Portugais, au midi. C'est où commence le Gouvernement de Mozambique."²

2. Gueudeville dans "l'Atlas historique ou nouvelle introduction à l'histoire" (Amsterdam 1769) : "Inhaca où commence le Gouvernement de Mozambique."³

3. Les auteurs du "Dictionnaire Géographique Universel par une Société de Géographes," publié à Bruxelles (3^e édition, 1839), lesquels regardent également la baie de Lourenço Marques comme la limite qui sépare la Cafrerie du Gouvernement de la Province de Mozambique alors que, en parlant du fleuve du Saint-Esprit, ils disent qu'il vient se jeter "dans la baie de Lourenço Marques, sur la limite de la Cafrerie propre et de la Capitainerie Générale de Mozambique."⁴

4. Perron et Aragon, dans leur "Nouveau Dictionnaire de Géographie Universelle" (4^e édition, Paris 1857), qui comprennent la baie de Lourenço Marques dans cette même Province : "Mozambique. La Capitainerie Générale est formée des possessions Portugaises situées dans le sud-est de l'Afrique. Les côtes offrent les baies de Lorenzo Marques, Sofalla," etc.⁵

5. Charles Vogel qui, en décrivant les possessions Portugaises de l'Afrique Australe dans son livre "Le Portugal et ses Colonies," publié à Paris en 1860, fait commencer

¹ "Naukerige Beschrijving der Afrikaenschen Gewesten," &c., Amsterdam, 1668 ; trad. en Français à Amsterdam en 1668, sous le titre "Description de l'Afrique."

² Tome ix, p. 282.

³ Tome vi, carte No. 15, p. 59.

⁴ Tome ii, p. 340.

⁵ Tome ii, p. 227.

la Province de Mozambique à la baie de Lourenço Marques: "Dans ses limites actuelles le Gouvernement Générale de Mozambique s'étend depuis la Baie Delagao ou de Lourenço Marques jusqu'au Cap Delgado" (p. 565).

Section 6.—*Auteurs Anglais.*

Enfin, après le témoignage de tant d'auteurs Anglais déjà cités dans notre premier mémoire, nous invoquerons encore celui du Capitaine Owen lui-même. Dans sa lettre du 10 Mai 1825 à Sébastien Xavier Botelho, Gouverneur de Mozambique, Owen avoue que notre droit sur toute la baie à l'époque de son arrivée (1823) était *généralement* reconnu, quoiqu'il semble trouver cette opinion fausse, uniquement dans un but de convenance personnelle: "Under the impression (a false but very common one, founded in ignorance) that all the surrounding country and coast was under Portuguese jurisdiction and authority, I showed Senhor Casimir my papers and asked his permission to survey the rivers."¹

Chapitre III.—*Nouveaux Arguments déduits de la Reconnaissance par les Hollandais, en 1731.*

Aux arguments déduits de la reconnaissance par les nations et les gouvernements étrangers de notre droit sur la Baie de Lourenço Marques inclusivement vers le nord jusqu'au Cap Delgado, et exposés à la page 82 de notre premier mémoire, nous joindrons encore le suivant.

En 1731, alors que Jean da Fonseca Moniz était Gouverneur d'Inhambane, les deux navires de la compagnie Hollandaise le "Snuffelaar" et le "Zeepost" s'étant rendus dans ce port pour y faire le commerce, le Gouvernement leur fit notifier que tous les ports du Gouvernement Général de Mozambique, auquel appartenait celui d'Inhambane et aussi la baie de Lourenço Marques, étaient compris dans les domaines et possessions du Roi de Portugal dont il était, lui Gouverneur, chargé de surveiller les intérêts.

En vertu de cette notification, les Hollandais signèrent un acte par lequel ils reconnurent notre droit sur ces ports et s'engagèrent à le respecter, acte qui fut envoyé au Vice-Roi de l'Inde par Dionysio Emmanuel Viegas, Capitaine alors Gouverneur par intérim de Mozambique.

Ce fait rapporté dans le règlement donné par le Comte de Sandomil, Vice-Roi de l'Inde, au Gouverneur de Mozambique, Don Antoine Casco e Mello, le 27 Janvier, 1733,² est confirmé par le journal de bord du premier de ces deux navires, le "Snuffelaar," à la date du 14 Octobre, 1731; ce curieux document existe dans les archives du Gouvernement des Pays-Bas; nous en possédons une copie, que nous devons à la gracieuse obligeance de l'archiviste, M. Van den Bergh.³

TITRE V.

Arguments opposés à la Reconnaissance de notre droit par l'Angleterre.

Nous allons revenir sur ce sujet dont nous nous sommes déjà occupés dans le chapitre 7 de la quatrième partie de notre mémoire, afin d'anéantir complètement les objections faites par l'Angleterre à l'argument foudroyant déduit de la Convention de 1817, et aussi pour démontrer que notre droit était déjà reconnu par elle depuis 1721.

Chapitre I.—*Reconnaissance de notre droit par la Convention du 28 Juillet, 1817.*

L'Angleterre a reconnu positivement nos droits sur la Baie de Lourenço Marques par la Convention du 28 Juillet, 1817, additionnelle au Traité du 22 Janvier, 1815, dans laquelle, par l'Article II, la souveraineté Portugaise sur tous les territoires compris entre le Cap Delgado et la Baie de Lourenço Marques est expressément reconnue:

"Les territoires (dit le texte Portugais) que la Couronne de Portugal possède sur les côtes d'Afrique au sud de l'équateur, savoir: sur la côte orientale d'Afrique, le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques," &c.

¹ Cette lettre se trouve dans le Mémoire Anglais ("Case"), Appendice iv, p. 29 [p. 16].

² Document No. 112.

³ Document No. 110.

"The territoires (dit le texte Anglais) possessed by the Crown of Portugal upon the coast of Africa to the south of the Equator, that is say: upon the eastern coast of Africa the territory laying between Cape Delgado and the Bay of Lorenzo Marques," &c.

Section 1.—*Deux Arguments de l'Angleterre contre la Convention de 1817, produits dans des Documents Officiels antérieurs à son Mémoire de 1873.*

A cet argument irréfutable tiré de l'Article II de la Convention de 1817, l'Angleterre a opposé :

1. En réponse aux notes diplomatiques du Duc de Palmella (1827-1828), que la Baie de Lourenço Marques, en tant que limite sud des possessions Portugaises, devait s'entendre *exclusivement*.

Dans une note de son Chargé d'Affaires à Lisbonne du 28 Mars, 1862 :¹ que les mots *Baie de Lourenço Marques* ne désignaient pas positivement la baie de ce nom (*Delagoa Bay*), mais bien la petite baie située devant l'établissement Portugais du fleuve du *Saint-Esprit* (*English River*).

Section 2.—*Réponse au Premier Argument de l'Angleterre.*

La première objection n'a pas de valeur :

1. Parce que l'Angleterre ne pouvant pas, en 1823, décider *seule* de l'interprétation du Traité qui était un contrat bilatéral, cette interprétation, si le sens en était douteux, ne pouvait être faite qu'au moyen d'une déclaration des *deux* parties ou par l'arbitrage d'un tiers. La question même de savoir si le sens en est douteux est une question préalable qui ne peut être résolue que de la même manière. C'est là un point incontestable en droit des gens, d'après Moser² et Klüber.³

2. Parce que l'interprétation du Traité devant être d'accord avec les règles de l'interprétation logique et grammaticale, dont Vattel,⁴ Haus⁵ et Schmalz⁶ nous offrent d'excellentes règles, l'interprétation donnée par l'Angleterre à l'Article II de la Convention de 1817 serait inadmissible comme absurde et contradictoire :

(a) Parce que la désignation de la Baie de Lourenço Marques, comme limite sud des possessions Portugaises dans l'Afrique Orientale, ne peut s'entendre autrement que *inclusivement*, de même que la désignation du Cap Delgado, comme limite nord, a toujours été comprise *inclusivement* par toutes les nations et par l'Angleterre elle-même ;

(b) Parce qu'il eût été impossible de sous-entendre ce mot *exclusivement*, car le Portugal n'aurait pas signé un traité qui l'eût *ainsi* dépossédé de toute cette baie où, depuis plus de trois siècles, il avait établi sa souveraineté ;

(c) Parce que l'Angleterre, réclamant *seulement* la partie *sud* et ne contestant pas au Portugal la souveraineté de son établissement et de sa forteresse *au nord*, reconnaît contradictoirement son droit sur une moitié de la baie, alors que, en présence de la lettre du Traité, ou il a droit à *toute* la baie (si l'on accepte, comme cela doit être, le mot *inclusivement*), ou bien il n'a droit à *aucune* partie de cette baie (si l'on sous-entend, ainsi que l'exige l'Angleterre, le mot *exclusivement*) ;

(d) Parce que toutes les nations, reconnaissant aujourd'hui notre droit et notre souveraineté sur la Baie de Lourenço Marques, confirment ainsi la seule interprétation possible du Traité. L'on peut indiquer, comme la preuve la plus récente de cette reconnaissance, le Traité de Commerce et de Limites fait avec la République des Boers, le 29 Juillet, 1869, Traité dans lequel les limites sud de notre territoire sont fixées par une ligne droite tirée du 26° 30' de latitude sud.

(e) Parce que, la disposition du Traité étant claire et précise, on ne peut admettre aucune interprétation restrictive de sa lettre, suivant la règle enseignée par Wolf : "Standum omnino est iis quae verbis expressis, quorum manifestus est significatus, indicata fuerunt, nisi omnem a negotiis humanis certitudinem removere volueris,"⁷ et répétée par Vattel : "Quand un acte est conçu en termes clairs et précis, quand le

¹ Document No. 70.

² "Versuch des Europ. Völkerrechts," viii, 323, ff.

³ "Droit des Gens Moderne de l'Europe," nouv. édit. de Ott, Paris, 1861, § 163.

⁴ "Droit des Gens," Liv. ii, ch. 17, §§ 262-415.

⁵ "Versuch über die ersten Grundsätze der Interpretationen Staats- und Völkerrechtlicher Normen," dans Cremer's and Jaup's Germanien, tome ii, Giessen, 1809.

⁶ "Europäisches Völkerrecht," Berlin, 1817, p. 56 et suiv.

⁷ "Jus Natur," pars vii, not. 822.

sens en est manifeste et ne conduit à rien d'absurde, on n'a aucune raison de se refuser au sens que cet acte présente."¹

Lorsque dans le Traité de Paix d'Utrecht célébré entre Louis XV et Don Jean V, en 1713, la France reconnut au Portugal, par l'Article VIII, la propriété des terres du *Cap du Nord entre le fleuve des Amazones et celui de Japoi ou Vincent Pison*, il n'a jamais été mis en doute que le Portugal ne restât maître de la rive septentrionale et de la méridionale du fleuve des *Amazones*, extrême point sud du territoire Portugais, et la France elle-même le reconnut par l'Article X du Traité: "Sa Majesté Très-Chrétienne reconnaît . . . que les deux bords de la Rivière des Amazones, tant le méridional que le septentrional, appartiennent en toute propriété, domaine et souveraineté à Sa Majesté Portugaise."²

Section 3.—Réponse au Deuxième Argument de l'Angleterre.

La seconde objection n'a pas une plus grande valeur:—

1. Parce que cette seconde objection est en contradiction avec la première, attendu que, tandis que d'après le système de la première objection les mots *Baie de Lourenço Marques* sont pris comme équivalents de *Delagoa Bay* pour être entendus exclusivement, d'après celui de la seconde ces mots ne sont déjà plus les équivalents de *Delagoa Bay* et désignent à peine l'insignifiante baie ou anse qui se trouve en face de l'établissement Portugais sur le fleuve du Saint Esprit!

2. Parce que les mots *Baie de Lourenço Marques* ayant toujours désigné la baie à laquelle les Anglais ne commencèrent à donner le nom de *Delagoa Bay* qu'en 1823 (ainsi que nous l'avons démontré dans le premier mémoire, Chapitre II de la première partie) ces mots doivent être forcément compris, dans la Convention de 1817, dans le sens qui leur était *alors* et qui leur fut toujours appliqué, ce qui constitue encore une règle d'interprétation des traités, formulée par Vattel:³ "Le nom des pays . . . doit s'entendre suivant l'usage reçu alors . . . car on ne présume point que des ignorants ou des sots soient chargés d'une chose aussi importante."

Et cette règle est d'accord avec les principes d'interprétation déjà reçus en droit Romain: "Non enim ex opinionibus singulorum, sed ex communi usu nomina exaudiri debere" (L. 7, § 2 Dig. de *supellectile legata*), et consacrés par Troplong: "Quand une locution a un sens convenu (dit-il dans son traité 'Du louage'⁴), on n'est pas recevable à venir s'élever contre elle; eût-on cent fois raison grammaticalement parlant, on aurait cent fois tort auprès les juges du droit."

Il faut ajouter que, d'après la doctrine de la Cour de Cassation de Paris,⁵ les traités diplomatiques doivent être interprétés en harmonie avec le droit public et civil admis par les nations contractantes, et surtout par celle où *ces traités doivent recevoir leur exécution*; or, comme l'Article II de la Convention de 1817 ne pouvait recevoir son exécution que sur territoire *Portugais*, les expressions *Baie de Lourenço Marques* ne pouvaient être prises dans un sens différent de celui qu'elles ont toujours eu en Portugal, et qui d'ailleurs est celui qui leur a toujours été donné par les Anglais eux-mêmes, ainsi que nous l'avons démontré (première partie, Chapitre II du premier mémoire).

3. Parce que le Gouvernement Anglais lui-même avoue dans son mémoire que la baie était désignée sur les cartes géographiques par le nom de *Lourenço Marques*, et le Capitaine Owen l'a ainsi indiquée sur la carte qu'il en a dressée en 1823, sous le titre: "A Survey of Delagoa Bay or Lourenço Marques."⁶

4. Parce que l'Angleterre, si elle ne voulait pas se servir de ces mots dans l'*unique* acception qu'ils avaient à cette époque, aurait dû s'en expliquer, et comme elle ne l'a pas fait, elle devra en subir les conséquences, ainsi que l'enseigne Vattel: "Si celui qui pouvait et devait s'expliquer nettement et pleinement ne l'a pas fait, tant pis pour lui: il ne peut être reçu à apporter subséquemment des restrictions qu'il n'a pas exprimées;"⁷ ce qui n'est que l'application de la maxime du droit Romain: "Pactionem obscuram iis nocere, in quorum fuit potestate legem apertius conscribere;"⁸ et de la règle: "Expressa nocent, non expressa non nocent." (LL. 195 "De Regul. Jur." et 52 Dig. "De Condit. et Demonstrat.")

¹ "Le Droit des Gens," liv. ii, chap. xvii, § 263; Grotius, "De Jure Belli ac Pacis," lib. ii, chap. xvi; Retherforth's "Institut.," ii, chap. vii; Kluber, "Droit des Gens Moderne de l'Europe," §§ 163 et 328, &c.

² Dumont, "Corps Diplomatique," tome viii, partie i, p. 353 et suiv.

³ Loc. cit., § 271, et liv. iv, chap. iii, § 33.

⁴ Sous l'art. 1709, No. 25, vol. ii, p. 128.

⁵ Cass. 17 Mars, 1830 (Sirey, 1830, i, 95), et 14 Juin, 1839 (Sirey, 1839, i, 577).

⁶ "Case," p. 7 [p. 5].

⁷ Loc. cit., § 264.

⁸ L. 39, Dig. "de pactis," et L. 21 "de contrah. emptione."

Ces principes sont de droit universel et voilà pourquoi Larombière, écrivant sur l'interprétation des Conventions, dit : " Que l'un d'eux (contractants) même d'habitude attache à une expression un sens tout différent de celui que l'usage lui a donné, sera-t-il admis à parler de son erreur et à refaire la convention, en prétextant une intention autre que celle qui se trouve clairement exprimée par le terme dont il s'est servi ? Evidemment non. S'il a mal expliqué sa pensée, tant pis pour lui. L'expression du contrat ne lui appartient plus : elle est acquise à l'autre contractant avec le sens et la portée qu'elle donne à la convention."¹

Section 4.—*Trois nouvelles Objections présentées dans le Mémoire Anglais de 1873 contre le Traité de 1817.*

L'Angleterre objecte encore dans son mémoire :²

1. Que la Convention de 1817 n'était pas un Traité de Limites, mais un Traité ayant pour objet la répression de la traite des noirs, d'où elle veut conclure qu'un pareil Traité n'oblige pas.

2. Que les mots de l'Article II ne reconnaissent pas la possession du Portugal à tout le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques mais se rapportent uniquement à quelques terres possédées par le Portugal entre ces deux points ; que, s'il en était autrement, on aurait mis dans l'Article les mots *tous les territoires* ; et que, conséquemment, on ne doit point comprendre par Baie de Lourenço Marques toute la baie de ce nom.³

3. Que les termes *Baie de Lourenço Marques* étant pris dans le sens voulu par le Gouvernement Anglais, c'est-à-dire comme synonymes de la petite baie située à l'embouchure du Saint Esprit, le Traité doit être entendu dans le sens de *Baie de Lourenço Marques que les Portugais possèdent*, pour la distinguer de la Baie de Lagoa qu'ils ne possèdent pas.⁴

Section 5.—*Réponse au Premier Argument.*

Le premier argument n'a aucune valeur :

1. Parce que, quoique la Convention de 1817 eût pour objet la répression de la traite, l'Article déclaratoire des limites des possessions Portugaises dans l'Afrique orientale et occidentale était nécessaire, et a été rédigé parce qu'il exprimait en partie le véritable objet de la Convention ; il n'a donc point été simplement *énonciatif* mais bien *dispositif*, et dispositif avec des effets importants, d'où il résulte qu'il est aussi obligatoire que le reste du Traité. Les dispositions ou propositions énonciatives sont, comme le dit Marcadé,⁵ " les simples indications qui se trouvent être accessoires et surabondantes, en sorte qu'on pourrait les retrancher sans modifier l'arrangement que les parties s'étaient proposé."

2. Parce que, alors même que l'Article II fût énonciatif, il l'était en rapport direct avec le dispositif, et dans ce cas on pourrait, par analogie, faire l'application de l'Article 1320 du Code Civil Français, d'après lequel l'acte, soit authentique, soit sous seing-privé, fait foi entre les parties, même de ce qui n'y est exprimé qu'en termes *énonciatifs* pourvu que l'énonciation ait un *rappor direct* à la disposition.⁶

3. Parce que l'objection prouve le contraire de ce qu'elle veut prouver puisque assurer que la Convention de 1817 n'oblige pas, dans la partie relative, à la désignation des possessions Portugaises dans l'Afrique Orientale, c'est reconnaître que cette désignation, dans le cas présent, est nuisible à l'Angleterre et avantageuse pour le Portugal.

Section 6.—*Réponse au Second et au Troisième Arguments.*

La seconde objection est également sans valeur :

1. Parce que, en admettant par hypothèse que l'absence du mot *tout* joint au mot *territoire* pût être un argument sérieux, il n'aurait d'effet que si le différend entre le Portugal et l'Angleterre avait pour objet quelque partie du territoire entre les deux limites nord (Cap Delgado) et sud (Baie de Lourenço Marques), car alors seulement

¹ "Théorie et Pratique des Obligations," Paris, 1857, tome i, p. 619.

² P. 14 et suiv. [p. 9].

³ P. 15 [p. 9].

⁴ P. 16 [p. 9].

⁵ "Jurisprudence Générale," v. "Loi," chap. vi.

⁶ Sous l'Article 1,320, No. 1.

l'Angleterre pourrait disputer ce territoire au Portugal, sous prétexte de la non-possession par ce dernier du *tout* contenu dans ces limites; toutefois le différend n'a point pour objet le territoire *compris* entre ces limites, mais justement celui que constitue la limite sud et qui est formé par la Baie de Lourenço Marques qui est un tout que l'on ne peut en aucune sorte diviser.

2. Parce que, quoique le mot *tout* qui, comme *omnis* en Latin, désigne une universalité,¹ eût été employé dans la seconde partie de l'Article II par rapport aux possessions Portugaises dans l'Afrique Occidentale pour désigner tout le territoire compris entre le 8° et le 18° degré de latitude, il ne s'ensuit pas que, parce qu'il n'aurait pas été employé dans la première partie qui a trait à l'Afrique Orientale, on voulût par là signifier que tout le territoire compris entre le Cap Delgado et la Baie de Lourenço Marques n'était pas Portugais. Il faudrait pour arriver à une pareille conclusion se servir de l'argument *à contrario*, argument très forcé et déduit de l'omission du mot *tout* dans la première partie de l'Article; or, l'argument *à contrario*, comme le dit Dalloz,² "est en général d'une grande faiblesse. . . . Le silence ne parle pas, et prêter une voix à celui du législateur, c'est toujours s'exposer à lui attribuer une intention qu'il n'a pas eue. En particulier la jurisprudence, des l'origine, admit que cette déduction devait être repoussée, lorsqu'elle avait pour résultat de mettre en opposition, l'un avec l'autre, deux Articles de Loi."³

3. Parce que l'argument pourrait avoir un semblant de force si dans l'Article du Traité on trouvait *les territoires* (au pluriel) compris entre le Cap Delgado et la Baie de Lourenço Marques, car dans ce cas, on pourrait supposer que nous ne possédions pas tout le territoire compris entre ces deux points, mais seulement quelques-unes de ses parties; mais dans l'Article il est dit bien clairement: "le territoire (au singulier) compris entre le Cap Delgado et la Baie de Lourenço Marques," ce qui ne permet pas, à ce sujet, le moindre doute.

4. Parce qu'une expression indéterminée employée dans un Article d'un Traité peut recevoir un sens précis si elle est déterminée dans ce même Article.⁴ Ainsi, d'après le premier chapitre de la loi *Aquila*, celui qui, à Rome, tuait un esclave ou un animal appartenant à autrui, devait payer une somme égale à la plus grande valeur qu'aurait pu avoir cet esclave ou cet animal, dans l'année qui avait suivi les blessures d'où était résulté la mort: "Quanti id in eo anno plurimi fuit" (LL. 2 pr., et 51 § 2. Dig. ad leg. Aquil.); et le troisième chapitre, prévoyant le cas de blessures non suivies de mort, obligeait l'auteur du fait à payer l'équivalent du préjudice occasionné, eu égard à la valeur vénale pendant les trente jours qui suivaient la date du fait: "Quanti ea res in diebus triginta proximis." (L. 27 § 5. Dig. ad leg. Aquil.)

Ce troisième chapitre se servait du mot *quanti* sans y ajouter *plurimi*; et quand il fut débattu si on devait l'entendre comme si les deux mots *quanti plurimi* eussent été employés, la question fut résolue affirmativement: "At nec plurimi quidem verbum adjicitur. Sed Sabino recte placuit perinde habendam æstimationem, ac si etiam hac parte plurimi verbum adjectum fuisset (§ 15 Inst. de leg. Aquil. iv, 3)."

Enfin, la troisième objection n'a aucune valeur, attendu que les mots *Baie de Lourenço Marques* correspondent, comme plusieurs fois déjà nous l'avons fait remarquer, au *Delagoa Bay* des Anglais.

Chapitre II.—Reconnaissance de notre droit par l'Angleterre en 1721.

A tous les faits de reconnaissance expresse et tacite de notre droit, déjà mentionnés dans le premier mémoire et dans cette réplique, il faut en ajouter un autre qui prouve que, dès le commencement du siècle dernier, l'Angleterre avait reconnu notre droit à la Baie de Lourenço Marques.

Suivant un projet nourri peut-être par l'Angleterre dès la fin du dix-septième siècle, comme nous le verrons dans la quatrième partie, la Compagnie des Indes Orientales Anglaises tenta, dans le premier quart du dix-huitième siècle, de s'emparer de cette baie, et prépara dans ce but une expédition qui devait partir de Bombay.

Le Gouvernement Portugais, ayant eu connaissance de cet attentat, protesta immédiatement, réclama avec énergie dans une note adressée au Ministre Anglais à Lisbonne, Mr. Worsley, et par l'intermédiaire de Diogo de Mendonça Côrte Real, notre

¹ Vicat. "Vocabularium Juris Utriusque," Paris, 1759, tome ii, v. "Omnis;" Dirksen, "Manuale Latinitatis Fontium Juris Civilis," Berlin, 1837, v. "Omnis."

² Larombière, "Théorie et Pratique des Obligations," tome iv, Paris, 1857, p. 263 et suiv.

³ Ernest-Désiré Glasson, "De l'Interprétation des Lois," Strasbourg, 1860, p. 103 et suiv.; Thiercelin, "Essais de Littérature de Droit," Paris, 1859, p. 176.

⁴ Delisle "Traité de l'Interprétation Juridique," Paris, 1849, tome ii, p. 71.

Ministre à Londres près le Gouvernement Anglais, et fit préparer une expédition qui devait se rendre sans retard dans la dite baie, afin d'en renforcer l'occupation. Ce fait fut communiqué à François Joseph de Sampaio, Vice-Roi et Capitaine-Général de l'Inde Portugaise par Lettres Royales du 16 Avril, 1721.¹

Devant l'énergie et le bon droit du Gouvernement Portugais l'Angleterre abandonna son dessein, alors que le Colonel Lumbey (plus tard Lord Sanderson) était déjà son Ministre à Lisbonne en remplacement de Mr. Worsley. Le départ de l'expédition devint donc inutile, ce qui fut communiqué au Vice-Roi par Lettre Royale du 12 Avril, 1723.²

TROISIÈME PARTIE.

Les Titres produits par l'Angleterre n'ont aucune valeur.

Pendant la discussion diplomatique qui eut lieu au sujet de l'affaire qui nous occupe, l'Angleterre crut devoir présenter deux bases sur lesquelles elle a essayé d'appuyer son prétendu droit à la partie méridionale de la Baie de Lourenço Marques, c'est-à-dire aux territoires du *Tembe* et de *Mapouto* en y comprenant les îles de l'*Unhaca* et des *Eléphants* :

1. La cession de ces territoires qu'elle prétend lui avoir été faite en 1823 par les respectifs régules.

2. Le désir de mettre obstacle à la traite des noirs et d'encourager tout commerce licite dans la baie.

Dans son mémoire, cependant, l'Angleterre a laissé de côté cette base de ses prétentions, qui, d'ailleurs, n'avait qu'un caractère subsidiaire.

Il ne reste donc plus que l'insistance de l'Angleterre sur la première base, c'est-à-dire sur les prétendues cessions du 8 Mars (celle du *Tembe*) et du 3 et 23 Août, 1823 (celles du *Mapouto*).

Dans notre premier mémoire (Nos. 89 et suivants) nous avons devancé tous les arguments que l'Angleterre pourrait présenter et nous avons opposé à ces prétendues cessions :

1. Qu'elles étaient *fictices* et dans le fond et dans la forme.

2. Que, fussent-elles véritables, elles n'en étaient pas moins *nulles* dans le fond et dans la forme.

3. Qu'elles ne pouvaient avoir *aucun résultat* favorable à l'Angleterre.

Aucun des arguments à l'aide desquels nous avons soutenu ces propositions n'a été détruit ; nous nous y rapportons donc sans les reproduire afin de ne pas tomber dans d'inutiles répétitions.

Dans son mémoire, l'Angleterre ne fait que vouloir détruire les raisons que nous avons présentées pour prouver que les deux régules du *Tembe* et de *Mapouto* avaient "désavoué les prétendues cessions et s'étaient déclarés tous deux vassaux du Portugal," le premier le 20 et le second le 22 Octobre, 1823.

A la déclaration du second, qui fait l'objet du document No. 32, l'Angleterre a opposé ce qui suit :

"Si le régule de Mapouto, dit le Gouvernement Anglais, avait, le 20 Octobre, 1823, la faculté de se déclarer sujet du Portugal, il devait avoir la même faculté à l'égard de l'Angleterre en Août 1823, donc sa déclaration d'Octobre ne peut invalider le Traité d'Août !"³

Ceci ne peut être sérieux. La déclaration d'Octobre, 1823, reconnaît le vasselage antérieur du régule au Portugal et déclare *faux* le prétendu Traité fait avec l'Angleterre, qui d'ailleurs n'était pas même un Traité de Cession mais bien un simple Traité de Commerce.

Si depuis de longues années un individu eût donné une chose à Pierre et si, sur la présentation en Août, 1870, d'une donation de la même chose à Paul le donateur déclarait en Octobre cette seconde donation *fausse* et affirmait n'avoir fait que la première à Pierre, d'après la logique du mémoire Anglais Paul pourrait dire que si cet individu avait en Octobre la faculté de faire une donation à Pierre, il avait en Août la même faculté pour lui en faire une, à lui Paul, et que par conséquent la déclaration faite en Octobre ne pouvait détruire celle d'Août.

¹ Document No. 103.

² Document No. 104.

³ "Case," p. 10 et suiv. [p. 7].

L'auteur du mémoire a oublié que nous n'avons pas, comme dans le cas d'une vente ou d'une cession faite à deux personnes, à rechercher laquelle de ces deux cessions est valable, nous nous trouvons dans l'hypothèse suivante : le donateur déclare avoir fait cession à l'un (le Portugal) et il nie celle que l'autre (l'Angleterre) prétend lui avoir été faite.

Aux déclarations du régule du *Tembe* l'Angleterre oppose le manque d'authenticité de l'acte,¹ qu'elle déduit des raisons déjà mentionnées à la page trente-sept, et que nous avons complètement détruites à l'aide d'arguments que nous tenons comme reproduits ici et auxquels nous ajoutons ce qui suit :

En Octobre 1823, quand les régules vinrent spontanément protester contre les prétendues cessions qui leur étaient attribuées, le Gouverneur de Lourenço Marques pensa, non sans raison, que l'on pourrait croire que cet acte n'avait lieu que par l'effet de notre influence sur les régules.

Il crut donc devoir, dans le but de détruire d'avance toute objection, inviter les *Anglais*, alors présents dans la baie, et parmi lesquels se trouvait M. Macuard, neveu de l'Amiral Anglais, à assister à cette déclaration des régules.

Les *Anglais* vinrent effectivement assister à cet acte, mais ils refusèrent d'en signer le procès-verbal, ainsi que cela est prouvé par les documents 34 *in fine* et 47 joints au premier mémoire, et ainsi que cela est avoué par le mémoire Anglais même (*Case*), à la page 36 !

Chapitre I.—Nouvelles considérations pour soutenir la fausseté des prétendues cessions.

Malgré que l'Angleterre, comme nous l'avons fait remarquer, n'ait détruit aucun des arguments présentés par nous contre les prétendus Traités, nous insisterons encore sur les points suivants pour ce qui regarde la *fausseté* des Conventions.

1. Après la déclaration des régules, cette fausseté n'est plus douteuse ; et si, alors que ces Conventions eussent été vraies elles ne pouvaient être opposées au Portugal, vu qu'elles sont *res inter alios acta*, aux termes de l'Article 1,365 du Code Civil Français, bien moins le peuvent-elles être depuis la déclaration des régules : "Certum est," dit Boicau,² "et communi Galliae usu receptum, nullam privatam scripturam, nullumque chirographum fidem habere, nisi prius agnoscatur."

2. La preuve évidente de la fausseté de la prétendue cession du *Tembe*, du 9 Mars, 1823, se trouve dans le texte même de la cession, texte reproduit à la page 42 du Mémoire Anglais (*Case*).³

On sait que les deux régules du *Tembe* et du *Mapouto* sont et ont toujours été séparés, et que chacun d'eux gouverne dans son district.

L'Angleterre reconnaît ce fait, et elle les croit si bien indépendants l'un de l'autre que, à la page 37, elle exhibe les prétendus Traités qu'elle a faits avec le seul régule de *Mapouto*.

Et toutefois, dans la prétendue cession du régule du *Tembe*, on remarque cette curieuse circonstance, c'est que dans le texte Anglais ce régule est censé avoir cédé à George IV non-seulement ses territoires du *Tembe* mais encore ceux de l'autre régule, celui du *Mapouto* :

"I, Mayott (autrement Maietta), King Kappel, &c., freely cede the full sovereignty of all the said lands of *Tembe and Mapoota* !"

De manière que le régule du *Tembe* cédait à l'Angleterre le territoire d'un autre régule, celui du *Mapouto*, qu'elle considérait indépendant au point de se prévaloir des Traités de Commerce qu'elle prétendait avoir passés avec lui !

De pareils faits tombent forcément devant le ridicule.

3. La cession se présente comme un acte spontané fait par le régule du *Tembe* le 8 Mars, 1823, écrit en *Anglais*, signé par ce régule et portant son sceau, ainsi qu'on le voit à la fin de la cession, page 43 du Mémoire Anglais (*I have put my hand and seal*); elle est encore censée avoir seulement été acceptée par le Capitaine Owen le 19 du même mois, comme il est dit à la page 44 de ce même Mémoire.

A la même date du 19, un botaniste et un lieutenant, deux créatures d'Owen, affirment, à la suite de l'acte de cession et à la même page 44, la spontanéité de cette cession et l'intervention, comme *interprète*, d'un nommé Shamaguva, individu tout-à-fait inconnu.

¹ "Case," p. 11 [p. 7].

² Partie II, chap. I, No. 2.

³ Le texte du Mémoire présenté par l'Angleterre est différent de la copie que nous avons obtenue, toutefois nous nous servons du document même fourni par l'Angleterre, car nous y trouvons de nouveaux arguments en notre faveur.

Ces faits étant admis comme les présente le texte du Mémoire Anglais, nous ferons les remarques suivantes :

- (a.) Le régule *ne savait pas écrire* ; nous affirmons qu'il ne le sut jamais.
- (b.) Il *ne savait pas l'Anglais*, et ce qui le prouve c'est qu'il fallait avoir recours à un interprète pour la rédaction de l'Acte de Cession.
- (c.) Qui pourra croire que le régule d'une tribu à moitié sauvage eût l'habitude de se servir d'un cachet pour sceller ses actes, à la manière Anglaise ? ("I have put my . . . seal in the British manner!") Il est à regretter que l'Angleterre ne nous ait pas donné un *fac-simile* de ce sceau !
- (d.) Comment se fait-il que ce régule qui avait tant d'amitié pour l'Angleterre, comme l'assurent les dernières pages de l'Acte de Cession, et qui affirmait qu'une grande partie de ses sujets parlaient l'Anglais, comment se fait-il que ni lui ni ses deux prétendus Ministres, signataires de la cession, ne sussent l'Anglais et eussent besoin de cet interprète nommé Shamaguva ?

4. Les deux raisons données à la fin de la cession, à la page 43 du Mémoire, suivant le texte Anglais, dénotent même l'absence de sens commun de la part du fabricant du document.

On fait dire au régule qu'il a choisi le Roi de la Grande Bretagne comme protecteur, pour deux motifs :

1. Parce que le peuple du *Tembe* avait pour lui une si grande amitié qu'il parlait même l'Anglais. ("I have chosen the King of Great Britain as my protector, because my people are so strongly attached to his that very many of them speak the English language.")

2. Parce que le pouvoir de l'Angleterre était *le seul* qui fût basé sur les principes de la justice universelle. (" . . . and because I believe his power to be the only one established on principles of universal justice.")

Quant à la première Raison.—Un peuple peut parler la langue d'un autre peuple sans pour cela lui être attaché par les liens de l'amitié ; mais quand même il en serait ainsi, présenter ce fait comme raison déterminative de la cession du territoire à ce peuple est une absurdité qui ne mérite même pas d'être mise en discussion. S'il en était ainsi, toute l'Europe où le Français est aujourd'hui langage courant s'empresserait de se placer sous la souveraineté de la France ; les Etats Unis redeviendraient une Colonie Anglaise, et le Brésil, où l'on parle le Portugais, s'annexerait de lui-même au Portugal !

Quant à la seconde Raison.—Qui aura la simplicité de croire que le grossier régule du *Tembe* se soit lancé dans de profondes considérations philosophiques pour arriver à déclarer que l'Angleterre était la *seule* nation dont le Gouvernement s'appuyait sur les principes de la justice universelle ? Qui ne voit la main d'un Anglais écrivant ces dispositions dans le texte de la soi-disant cession ?

5. Le prétendu Prince Slengelly (ou plutôt *Slangella*) qui a signé au bas de l'Acte de Cession en qualité de Chef du district de la rive gauche du *Saint Esprit* (*English River*) était (pourquoi cacherions-nous ce fait d'un ridicule écrasant) un nègre mauvais plaisant, *cuisinier* du fort Portugais, qui, pour se procurer quelques bouteilles de rhum et quelques livres de tabac, s'est amusé aux dépens du Capitaine Owen !¹

Chapitre II.—Nouvelles considérations à l'appui de la nullité.

Quant à la nullité des prétendues cessions, nous ferons encore remarquer ce qui suit :

1. Le Capitaine Owen lui-même reconnaissait la nullité de la prétendue cession du *Tembe* du 9 Mars, 1823 ; on en trouve la preuve dans la déclaration faite par lui à la date du 19 de ce même mois, où il dit qu'il n'acceptait cette cession que parce qu'il y était contraint et après avoir hésité jusqu'à ce jour, déclaration qui se trouve à la page 44 du Mémoire Anglais : "I have constantly evaded it, when urged to take the country for King George !"

Et afin que la bonne foi du Capitaine Owen au sujet de l'hésitation dans laquelle il prétend s'être trouvé jusqu'à ce jour 19 soit bien mise en lumière, nous appellerons l'attention de l'arbitre sur la lettre que, le 9, c'est-à-dire, *dix jours auparavant*, ce même Owen adressait au Gouverneur de Lourenço Marques, et qui se trouve à la page 36 du Mémoire Anglais, lettre dans laquelle il annonçait avoir accepté la cession du *Tembe* ; ("which cession I have accepted"). Ainsi, dans cette lettre il annonçait l'acceptation de la cession, le 9, et le 19 il prétendait avoir hésité jusqu'à ce jour !

¹ Document No. 138.

2. Les Conventions ou Traités, alors même qu'ils seraient véritables et non fictives, seraient nuls car ils ne pouvaient être faits ni par les règles ni par l'Angleterre.

Les règles ne pouvaient faire de cessions, car la souveraineté de toute la baie appartenant depuis trois siècles au Portugal, ces cessions étaient frappées de nullité comme concernant la chose d'autrui.

C'est un principe incontestable que personne ne peut transmettre à autrui plus de droits qu'il n'en a ou des droits qu'il n'a pas ; de ce principe résulte, comme nous l'avons déjà démontré dans notre premier Mémoire (page 97) la nullité des cessions, attendu qu'elles concernent la chose d'autrui, nullité qui est radicale et condamnée par l'Article 1599 du Code Civil Français.¹

L'Angleterre ne pouvait même accepter ces cessions car, ayant reconnu le droit du Portugal sur la Baie de Lourenço Marques six ans avant cette époque, par l'Article 2 de la Convention du 28 Juillet, 1817, elle ne pouvait alléguer son ignorance du fait, et elle savait parfaitement que ces territoires qu'elle prétendait lui avoir été cédés constituaient une propriété nôtre et que la nullité résulterait de ses prétendues Conventions avec les règles en 1823.

La doctrine exposée récemment par le célèbre Professeur Bluntschli dans son "Droit International Codifié" (p. 240) se trouve d'accord avec ces principes : "Les Traités dont le contenu est en contradiction avec des Traités conclus précédemment avec d'autres Etats, sont nuls dans la mesure en laquelle l'Etat, dont les droits antérieurs sont menacés, s'oppose à leur exécution."¹

Chapitre III.—Nouvelles considérations prouvant que les Conventions ne pouvaient être suivies d'effet.

Quant à l'impossibilité que les Conventions pussent être suivies d'effet :

Aux arguments à l'aide desquels, à la page 98 de notre premier Mémoire, nous avons soutenu l'impossibilité où étaient les soi-disant cessions d'avoir un effet quelconque favorable à l'Angleterre, nous ajouterons encore ce qui suit.

Ainsi que le dit Bluntschli, les conditions essentielles à la validité des cessions de territoire sont l'accord des deux Etats (le cédant et le cessionnaire), "la prise de possession effective par l'Etat acquéreur et l'absence d'obstacles graves de nature internationale."

Le manque de prise de possession effective et l'existence d'obstacles graves de nature internationale constituent des empêchements à la validité de la cession car, ainsi que le dit cet éminent jurisconsulte : "Le Traité ne consomme pas la cession, il ne fait que la préparer."²

Or ces deux conditions, même en admettant par hypothèse la réalité et la validité des cessions, font absolument défaut à l'Angleterre.

Section 1.—Le manque de possession effective est un empêchement à l'effet des cessions.

La première de ces conditions fait défaut à l'Angleterre, car il est reconnu qu'elle n'a jamais pris possession effective après les prétendues cessions de 1823 ; le Gouvernement Anglais l'avoue explicitement par la voix de Lord Clarendon dans la note du 27 Avril, 1869."³

La Grande Bretagne ne peut contester la nécessité de la possession pour compléter et rendre effective la cession, car c'est un principe courant en droit Anglais et qui a été soutenu par Sir William Scott :⁴ " 'All writers concur, however, in holding it to be a necessary principle of jurisprudence, that to complete the right of property,' the right to the thing and the possession of the thing itself should be united ; 'or, according to the technical expression borrowed either from the civil law or as Barbeyrac explains it, from the commentators on the canon law, that there should both be the *jus in rem* and the *jus in re*. This is the general law of property, and applies, I conceive, no less to the right of territory than to other rights.' "

Dans la jurisprudence Anglaise, la cession peut tout au plus conférer le *jus ad rem* ; le *jus in re* ou la propriété ne peut être transmise sans l'effectivité de la possession.

C'est que le droit Anglais,⁵ suivant la théorie Romaine de la tradition, a adopté le

¹ De Folleville, "Essai sur la Vente de la Chose d'Autrui," Paris, 1874, p. 54 et suiv.

² Paris, 1874, § 414, p. 174.

³ Document No. 73.

⁴ Dans l'affaire du "Fama."

⁵ Henry John Stephen, "New Commentaries on the Laws of England," London, 1848, tome i, p. 482 et suiv.

principe de la constitution de Dioclétien et de Maximien : "Traditionibus et usucapionibus, dominia rerum, non nudis pactis transferuntur,"¹ et que, en acceptant les locutions barbares de *jus in re* et de *jus ad rem*, introduites au moyen-âge,² il n'admet la consommation de l'acquisition du *jus in re*, c'est-à-dire la transmission du droit de propriété, qu'après vérification de la tradition et de la possession.

Nous savons qu'en droit civil Français aussi bien qu'en droit civil Portugais la propriété se transfère *solo consensu*, sans nécessité de tradition ou de possession, mais l'affaire n'a point trait au droit civil mais bien au droit international et il faut savoir, non pas seulement si la propriété se peut transmettre *solo consensu*, mais encore si la cession peut se compléter sans la possession.

En effet, si en droit international, on peut débattre sur la transmission de la propriété par le seul consentement ; sur le second point tous sont d'accord que la cession ne peut se compléter ou ne peut avoir d'effet sans la possession effective.

Dans cette question, Grotius³ et Puffendorf⁴ se sont prononcés pour l'affirmative, suivie aussi actuellement par Eugène Ortolan⁵ ; mais l'opinion contraire, adoptée en Angleterre par Sir William Scott et défendu par Hoeffter⁶ et Bluntschli⁷ est celle qui prévaut dans la théorie, sauf quand, dans les Traités, on déclare la propriété comme transférée, indépendamment de la possession que l'on confère ensuite et qui d'ailleurs est nécessaire, ce dont on peut fournir comme exemples l'échange du Holstein et de ses dépendances contre les Comtés d'Oldenbourg et de Démonhorst, entre la Russie et le Danemark le 20 Mai, 1773,⁸ et la cession de la Louisiane faite par la France aux Etats-Unis, dans le Traité du 30 Avril, 1803, célébré entre le Premier Consul de la République Française et le Président de la Confédération Américaine.⁹

L'échange ayant été signé par la Russie et le Danemark, l'Empereur Paul promulga un décret le même jour, publié à Kiel le 5 Novembre, 1777, dans lequel il déclarait que, par effet exprès de la cession, la souveraineté du Holstein ayant été transférée au Roi de Danemark, il ordonnait que la possession lui en fût donnée sans retard :

"Vu donc qu'en conséquence de ce Traité, et par acte de cession expédié sous la date d'aujourd'hui, nous avons déjà cédé et transporté en pleine propriété notre dite part au Duché de Holstein, avec ses dépendances, à Sa Majesté le Roi de Danemark et de Norvège, et à ses descendants mâles, ainsi qu'à toute la maison royale de Danemark dans la succession masculine ; que la possession de ces pays sera incessamment remise à Sa dite Majesté. . . . A ces causes, nous vous mandons et ordonnons, etc."

Section 2.—De graves embarras internationaux s'opposent à l'effet des cessions.

La seconde condition manque à l'Angleterre, attendu que la protestation immédiate des régules du Tembe et du Mapouto, ainsi que celle du Gouvernement Portugais et son opposition constante et opiniâtre, ont toujours empêché la réalisation de cette cession chimérique.

Ont protesté en effet :

1. Les Gouverneurs de Lourenço Marques, le 28 Octobre, 1823, le 5 Septembre, 1825, et le 6 Juin, 1826.¹⁰
2. Les régules du Tembe et du Mapouto en Octobre, 1823.¹¹
3. Le Gouvernement Portugais, par la voix de son Envoyé à Londres, le 17 Juin, 1826, le 23 Mai, 1827, et le 22 Mai, 1828.¹²
4. Le Gouverneur de Mozambique le 7 Août, 1860.¹³
5. Le Commissaire Portugais du Cap de Bonne Espérance, le 5 Décembre, 1861.¹⁴
6. Le Gouvernement Portugais par l'organe de son Ministre à Londres, le 22 Février, 1862, et le 14 Juin, 1869.¹⁵

¹ L. 20. Cod "De Pactis."—Voir Léon Puget, "De la Tradition en Droit Romain," Toulouse, 1872.

² Ces deux locutions se trouvent au treizième siècle dans les Constitutions Pontificales ; cependant la première se rencontre déjà dans le Brachylogus, sommaire du droit de Justinien, composé en Lombardie, au douzième siècle.

³ "De Jure Belli ac Pacis," lib. ii, chap. vi, § 1.

⁴ Lib. iv, chap. ix, §§ 5 et suiv.

⁵ "Des Moyens d'acquérir le Domaine International," Paris, 1851, p. 73 et suiv.

⁶ "Das Europäische Völkerrecht der Gegenwart," § 69, not. 1.

⁷ Loc. cit.

⁸ Moser's, "Versuch," liv. v, chap. vii, § 5.

⁹ Marten's "Recueil," S. tome iii, p. 464.

¹⁰ Documents Nos. 44 à 46.

¹¹ Documents Nos. 32 à 34.

¹² Documents Nos. 48 à 53, 54, 56 et 57.

¹³ Document No. 61.

¹⁴ Document No. 63.

¹⁵ Documents Nos. 67, 69, et 72.

Une pareille opposition n'est pas moins importante que celle de l'Angleterre et des Etats Unis à la cession que l'Espagne voulait faire de la Louisiane à la France, en 1800, et que celle de la Prusse à la cession du Luxembourg à la France, en 1867; or, il est évident que si ces nations purent élever par leur opposition des obstacles internationaux à la réalisation de ces cessions, comme le dit Bluntschli, l'opposition faite par le Portugal à l'Angleterre dans la présente affaire ne constitue pas un empêchement moins grave.

Section 3. - *Considérations spéciales au sujet du Mapouto.*

Les Conventions faites avec le *Mapouto*, spécialement, ne pourraient avoir aucun effet favorable à l'Angleterre, alors même qu'elles ne seraient ni controuvées ni désavouées par les régules : —

1. Parce que la Convention du 3 aussi bien que celle du 23 Août, 1823, toutes deux insérées dans le Mémoire Anglais, à la page 37, ne contenaient aucune cession de territoire, puis qu'elles ne représentent que des Traités de Commerce;

2. Parce que ces deux Conventions auraient cessé de plein droit : la première parce qu'elle ne devait durer que quatre ans (*this engagement to be enforced for four years*); la seconde parce qu'elle ne devait durer que dix ans (*for ten years from the date hereof*).

En effet, on sait que tout Traité conclu pour un certain temps (comme l'étaient, par exemple, les Traités d'*Asiento* faits autrefois par l'Espagne avec le Portugal, la France et l'Angleterre) perdent de plein droit leur validité dès que, comme le dit Bluntschli,¹ le terme auquel ils sont fixés est échu : "Lorsqu'il a été conclu pour une durée déterminée et que le temps fixé est écoulé."

C'est là un principe courant en droit des gens :

"L'alliance," dit Vattel,² "prend fin aussitôt que son terme est arrivé."

"Les Traités publics," écrit Kluber,³ "cessent d'être obligatoires . . . 3. Lors de la stipulation d'un terme, à l'époque de son échéance."

"Les Traités," dit Hautefeuille,⁴ "qui ne contiennent aucune atteinte aux droits essentiels, et sont conclus pour un temps déterminé, sont obligatoires pour tout le temps fixé."

QUATRIÈME PARTIE.

Chapitre I.—*L'Angleterre nourrit depuis de longues années le désir de s'emparer de la Baie de Lourenço Marques; ce désir a toujours été déçu et s'est bien souvent manifesté dans les travaux des écrivains de ce pays comme un moyen de nuire à la France.*

Les prétentions de l'Angleterre ne datent pas des soi-disant cessions de 1823, elles n'ont fait que revêtir une forme nouvelle, car elles sont fort anciennes, se sont manifestées sous différents aspects et ont toujours été repoussées ainsi que nous le démontrons à l'aide de faits dont l'Angleterre n'ose même pas parler et que nous allons mettre en pleine lumière.

1. Pendant les dernières années du dix-septième siècle, à l'époque où nous avons coutume d'envoyer tous les ans des navires de Mozambique dans cette baie que nous n'occupions encore qu'au moyen de factoreries, alors que déjà les Hollandais jetaient des regards de convoitise sur ce point, l'Angleterre ressentit le désir de s'en emparer et elle commença en 1686 à y envoyer des navires de commerce pourvus d'artillerie, afin d'essayer d'entraver notre commerce et d'indisposer les Cafres contre nous. Un pareil fait effraya le Gouverneur de Mozambique, D. Miguel de Almeida, qui, cette même année, en écrivit au Vice-Roi de l'Inde, Don Rodrigo da Costa, lui demandant, tant il craignait quelque attaque des Anglais, s'il devait comme c'était l'usage, envoyer un navire dans la Baie de Lourenço Marques.

Cependant, grâce à l'énergie déployée en cette circonstance par le Vice-Roi, notre navigation régulière put être continuée, ainsi qu'il le communiqua dans sa dépêche du 24 Janvier, 1687,⁵ au Gouvernement Portugais qui approuva sa conduite. Les Anglais ne tentèrent alors rien de plus contre nous.

¹ Loc. cit., § 450, p. 257.

² "Le Droit des Gens," § 198.

³ "Droit des Gens Moderne de l'Europe," §§ 164 et 165.

⁴ "Des Droits et des Devoirs des Nations Neutres," tome i, p. 10.

⁵ Document No. 102 et Annexes.

2. En 1720, le dessein des Anglais prit un caractère plus sérieux. Ils voulurent faire partir de Bombay une expédition qui devait s'emparer de la baie et ils n'abandonnèrent cette idée que sur les énergiques réclamations de notre Gouvernement, ainsi que nous l'avons fait voir dans la deuxième partie de ce Mémoire. Cette seconde tentative des Anglais jointe à une autre des Hollandais, fut le principal motif qui nous porta à établir des fortifications régulières dans toute la baie.

3. Quoique leurs tentatives eussent échoué jusqu'à ce jour, les Anglais ne renoncèrent pas à leurs projets auxquels Orry de Fleury, Directeur de la Compagnie Française de Pondichéry, faisait allusion dans sa lettre du 13 Mai, 1783, au Secrétaire d'Etat, Antoine Guedes Pereira,¹ mais sachant que nous nous tenions sur nos gardes, ils commencèrent à envoyer dans la baie des navires de Bombay, en ayant soin toutefois de solliciter du Gouverneur de Damão, dans l'Inde Portugaise, des passeports *Portugais* pour la côte orientale d'Afrique; à l'abri de ces passeports ils tentèrent plus d'une fois de soulever les Cafres contre nous, comme cela eut lieu en 1763, année pendant laquelle leurs navires cherchèrent à éviter la frégate de guerre Portugaise "S. José," dont ils ne s'approchèrent que sur l'ordre, appuyé de coups de canon, qui leur en fut donné.²

Plus tard, pendant les années 1782 et 1783, les Anglais tentèrent de s'introduire de nouveau à Lourenço Marques. Dans cette pensée ils firent partir de Bombay la corvette "Sainte Anne," munie d'un passeport Portugais, et commandée par un soi-disant capitaine Portugais, qui n'était autre qu'un simple élève pilote; le véritable capitaine était un Anglais nommé Thomas Burton. Pour accomplir leur dessein et pouvoir porter *pavillon Portugais* et se munir d'un *passeport également Portugais*, les Anglais s'entendirent avec Antonio Pereira, négociant de Goa, qui consentit à passer pour le *propriétaire du navire* et avec un autre Portugais, Michel de Lima e Sousa, résident à Bombay, qui prit le rôle d'*armateur*.

Toutefois cette supercherie fut démasquée par le Gouverneur de la baie, Joaquim de Araujo, et par le Gouverneur de Mozambique, Pedro de Saldanha de Albuquerque. Le navire fut chassé et cette tentative échoua encore une fois.³

En 1790, des navires marchands Anglais se rendirent encore dans la baie de Lourenço Marques avec capitaines et équipages Anglais, mais portant cette fois *pavillon Français*. Ils firent, mais en vain, tous leurs efforts, pour indisposer les Cafres contre nous et pour les déterminer à se révolter contre notre souveraineté. Ce fait fut communiqué par le Gouverneur de Mozambique au Vice-Roy ne l'Inde, dans sa lettre officielle du 19 Août, 1790, et au Ministre de la Marine le 23 du même mois et de la même année, et le 31 Août, 1791.⁴

Un pareil fait doit être sévèrement blâmé. L'Ordonnance Française de 1681⁵ considère comme de bonne prise tout navire portant un pavillon qui n'est pas le sien et regarde comme pirates le capitaine et les officiers quand ce navire est armé en guerre. Valin, en commentant cette ordonnance, dit que ce procédé constitue *un trait de lâcheté et de perfidie*.

Heureusement que l'Europe n'oublie pas facilement la sensation produite sur l'esprit public par le guet-apens au moyen duquel, le 4 Septembre, 1800, deux frégates Espagnoles furent prises, à la hauteur de Barcelone, avec abus du pavillon Suédois du navire "Die Hoffnung."⁶

6. En 1815 nous surprîmes encore les Anglais faisant de nouvelles tentatives pour soulever les Cafres contre nous, ce qui donna lieu à ce que le trois-mâts Anglais "Persévérance," du port de Bombay et commandé par Thomas Ramsden, fût chassé de la baie par le canon de notre fort, en Mars de la même année, et ce qui amena la réclamation présentée immédiatement par le Gouverneur de Mozambique au Gouverneur de Bombay le 15 Août suivant, ainsi que cela fut communiqué au Gouvernement dans une dépêche officielle du 30 Septembre.⁷

7. Les Anglais n'ont jamais perdu l'espoir de s'emparer de la baie; ils y étaient même poussés par le désir de nuire à la France, désir souvent manifesté par quelques écrivains et par les actes de plusieurs autorités Anglaises mais qui n'était pas assurément partagé par le Gouvernement Britannique.

En 1798, l'Anglais William White conseillait à son Gouvernement d'occuper la

¹ Document No. 113.

² Documents Nos. 117 et 118.

³ Document No. 121.

⁴ Documents Nos. 125, 126, et 127.

⁵ Liv. iii, tit. v, Art. 9.

⁶ Le Baron de Cussy, "Phases et Causes Célèbres du Droit Maritime des Nations," Leipzig, 1856, tome ii, p. 120 et suiv.

⁷ Documents Nos. 130 et 131

Baie de Lourenço Marques, comme point stratégique pour enlever l'île de la Réunion à la France : "Si le Gouvernement avait jamais en vue d'attaquer l'île de la Réunion, la rivière de Mafumo (ou du Saint-Esprit) serait un excellent rendez-vous pour la flotte, parce qu'on pourrait y débarquer et y faire camper les troupes, leur procurer de la viande fraîche, des légumes, etc."¹

Ce qui donnait lieu à la note suivante du traducteur Français, J. Castéra : "Ces plans de l'ennemi doivent nous apprendre à nous tenir sur nos gardes !"

White assurait que pour une barrique d'eau-de-vie il obtiendrait de Capella, Roi du Tembe, tout le terrain suffisant : "Capelleh accorderait un terrain suffisant moyennant une barrique ou deux de rhum ou d'eau-de-vie."²

Le dessein des Anglais n'ayant pu réussir à cette époque, le Capitaine Owen chercha à le réaliser en 1823 au moyen des soi-disant Traités avec les deux régules de la partie méridionale de la baie (*Tembe et Mapouto*).

On remarquera également que la tentative des autorités de Port Natal pour s'emparer de l'Unhaca en 1861 et l'arrivée dans la baie de la frégate "Narcissus" chargée d'essayer ce coup de main, coïncide avec les événements qui eurent lieu dans la même année à l'île de Madagascar, à l'occasion de la mort de la Reine des Hovas et du couronnement de son fils Racouta. On sait combien en Angleterre on craignait l'influence de la France dans cette île.³

Chapitre II.—*L'Angleterre ne peut alléguer son ignorance ni s'appuyer d'aucun prétexte pour excuser le Capitaine Owen.*

On reconnaît, par les faits que nous venons d'exposer, que l'Angleterre dont les navires fréquentèrent la baie dès la fin du dix-septième siècle et qui, plus d'une fois, montra clairement son intention de s'en emparer, ne peut protester de l'ignorance du Capitaine Owen en 1823 au sujet de notre droit, ainsi qu'elle prétend le faire dans son Mémoire.

Déjà vers la fin du siècle dernier, White, dans son voyage cité au chapitre précédent, avait que les navires Anglais connaissaient et fréquentaient la Baie de Lourenço Marques : "quoique elle ait été souvent fréquentée (dit-il) par quelques-uns des Anglais et des Américains."

Ainsi que nous l'avons démontré dans notre premier Mémoire, il est hors de doute que le Capitaine Owen a agi avec la plus évidente mauvaise foi et la plus insigne perfidie.

C'est en vain qu'Owen cherche à s'appuyer d'un subterfuge en disant que l'autorité Portugaise dans la baie ne s'étendait pas au delà de la portée des canons de son fort, que les indigènes lui contestaient cette autorité et qu'ils étaient en guerre avec nous ; c'est vainement qu'il veut en conclure qu'il était dans son droit en faisant des Traités avec les régules, et en obtenant de ces mêmes régules des cessions de territoire.

A cette époque et plus tard encore l'Angleterre voyait, dans des certaines parties de ses Colonies, son autorité contestée d'une manière bien plus sérieuse que ne l'était celle du Portugal dans la Baie de Lourenço Marques.

Combien d'Anglais n'ont-ils pas été dévoré par les naturels de la Nouvelle Zélande après 1835, alors qu'ils s'établirent dans cette île afin d'en déloger les Français ? Combien d'entre eux ne furent-ils pas mis à la broche dans ce pays pendant l'insurrection de 1864-1865 ? S'ensuit-il que le Gouvernement Portugais aurait pu faire des Traités avec les indigènes, leur acheter un *Pah* et arborer son drapeau sur ce territoire ?

Actuellement encore, tout naufragé que les tempêtes du dangereux détroit de Torres jettent sur la côte septentrionale de la Nouvelle-Hollande est impitoyablement rôti et dévoré sans rémission par les sujets indigènes de Sa Majesté Britannique ; tout voyageur qui s'aventurerait dans ces parages subirait le même sort ; ce fait autorise-t-il la nation Portugaise à aller y fonder un établissement en prenant pour prétexte de cet empiètement l'intention de réformer les mœurs féroces de ces anthropophages ?

En outre, l'allégation est complètement fausse car les prétendues cessions ont été immédiatement suivies des protestations des deux régules qui furent remises entre les mains du Gouverneur Portugais qui fit sans délai arborer le drapeau Portgais sur leurs

¹ Dans le tome iii, p. 204, de la "Relation de l'Ambassade Anglaise envoyée en 1795 dans le Royaume d'Ava, &c., suivie d'un Voyage fait en 1797 à Colombo, dans l'île de Ceylan, et à la Baie de Da Lagoa, &c." trad. de l'Anglais par J. Castéra, Paris, an 9 (1800).

² Ibidem, p. 208.

³ Document No. 62.

territoires, où il flotta jusqu'au 29 Août, 1824, époque où il en fut arraché par le Capitaine Owen.

Mais alors même que des hostilités eussent existé entre les indigènes et la garnison, cela n'autorisait pas un tiers à en profiter et à violer les lois de la neutralité. Déjà un fait de cette nature a mis l'Angleterre dans la nécessité de payer 10,000,000l. aux Etats-Unis.

Et si le principe invoqué par l'Angleterre était admissible, elle pourrait à son moment réclamer de la France Toulon et la Corse que lui furent vendus à une époque calamiteuse pour cette noble et généreuse nation.

CINQUIÈME PARTIE.

Résumé et Conclusion.

En résumé et pour conclure à ce travail :

Il est à décider à qui, du Portugal ou de l'Angleterre, appartient la souveraineté de la partie méridionale de la Baie de Lourenço Marques, c'est-à-dire les territoires de *Tembe* et de *Mapouto* ; et pour ce faire :

Attendu que, suivant le droit public Européen au seizième siècle, la *découverte* de territoires aux pays des infidèles était un titre légitime d'acquisition de la souveraineté de ces territoires ; que la légitimité de ce titre doit être estimée d'après le droit en vigueur à l'époque de l'acquisition, et que le Portugal possède ce titre en ce qui concerne toute la baie de Lourenço Marques, déjà découverte par nous en 1506 et exploitée depuis 1544 ;¹

Attendu qu'à ce premier titre vient s'en joindre un autre, celui de l'*occupation* et de la *possession* effective de la même baie pendant plus de trois siècles à compter de l'année 1544, titre qui, joint à celui de la découverte serait, même suivant les idées aujourd'hui en vigueur, plus que suffisant à légitimer notre droit ;²

Attendu que la possession du territoire et de la souveraineté a été acquise et que l'occupation a été exercée non-seulement au moyen de factoreries depuis le seizième siècle sur les rives du fleuve du *Saint-Esprit*, dans l'île *Chefine*, dans le *Manhiça* au nord et dans l'*Unhaca* au sud, jusqu'aux premières années du dix-huitième siècle, mais encore au moyen d'un établissement Portugais formé vers la fin du seizième siècle dans l'intérieur du *Mapouto*, l'une de ces factoreries, celle de l'île *Chefine* se trouvant déjà fortifiée au dix-septième siècle ;³

Attendu que, depuis le commencement du dix-huitième siècle nous avons transformé notre système d'occupation en ajoutant aux factoreries des fortifications en règle sur le territoire du *Tembe*, et en construisant un fort sur la rive sud du fleuve du *Saint-Esprit*, et plus tard un second fort sur la rive nord, sur les terres de *Matolla* en 1781, ainsi que d'autres forts dont l'un sur le territoire de *Mapouto*, un autre dans l'*Unhaca* et un troisième dans l'île *Chefine* au centre de la baie ;⁴

Attendu que notre possession du *Tembe* n'a pas été abandonnée puisque, tout en bâtissant un autre fort sur la rive située en face de la rive nord du fleuve du *Saint-Esprit* nous y avons conservé des fortifications provisoires de 1799 à 1800 après la destruction du village de cette rive nord par les corsaires Français en 1796, et que, même après notre réinstallation sur l'ancien emplacement (1800), nous avons toujours conservé dans le *Tembe* un poste militaire et fiscal gardé par un détachement dont il est fait mention, en 1818, dans des documents irrécusables.⁵

Attendu que, soit que l'on considère la possession comme de droit civil par rapport au territoire, soit comme de droit public par rapport à la *souveraineté* dans cette région, c'est-à-dire comme possession de territoire ou comme possession de droits, elle comprenait toute la baie du moment qu'elle en comprenait les principaux points ;⁶

Attendu qu'au *corpus possessionis* dans toute la baie a toujours été joint l'*animus*, manifesté par les actes de souveraineté à l'aide desquels le Portugal a constamment affirmé son droit, soit par le titre pris par les Rois de Portugal de maîtres de ces contrées, soit par l'exclusif de la navigation et du commerce, soit par le châtimement des

¹ Mémoire, p. 63 [p. 80] ; et Réplique, p. 15 et suiv. [p. 186].

² Mémoire, p. 65 [p. 81] ; et Réplique, p. 17-19 [pp. 187, 188].

³ Mémoire, p. 34 [p. 66] ; et Réplique, pp. 19, 23, et suiv. [pp. 188, 190].

⁴ Mémoire, p. 36-38 [pp. 67-68] ; et Réplique, p. 19 [p. 188].

⁵ Mémoire, p. 39 [p. 69] ; et Réplique, p. 19-21 [pp. 188, 189].

⁶ Mémoire, p. 65 et suiv. [p. 81] ; et Réplique, p. 25 et suiv. [p. 191].

tribus rebelles, soit par l'établissement de fortifications, soit par l'expulsion des étrangers toutes les fois qu'ils ont voulu s'établir dans la baie, comme cela eut lieu avec les Anglais en 1720, avec les Hollandais en 1730 et avec les Autrichiens en 1781 ;¹

Attendu que pour acquérir la possession d'un tout, le contact matériel avec toutes ses parties n'est point nécessaire, et qu'il n'est pas non plus besoin de couvrir entièrement ce tout d'établissements ou de forts, et qu'il suffit de la possibilité physique d'agir sur tout ce territoire du moment que l'occupation des points principaux existe ;

Attendu que le même principe milite en faveur de la conservation de la possession, laquelle se conserve pour ces motifs *solo animo* tant que subsiste l'*animus domini* et que ne se manifeste pas l'*animus contrarius* que constitue l'abandon ;²

Attendu que l'occupation par le Portugal et la possession qu'il a exercée soit qu'on les considère comme moyen de renforcer le titre de la découverte, soit comme titre également principal, c'est-à-dire, soit comme possession devant être maintenue, soit comme possession qualifiée et moyen d'acquérir, réunissent toutes les conditions juridiques de la possession, parce qu'elles sont fondées en titre, exercées à titre de propriété ou de souveraineté et non à titre précaire, et qu'elles ont été publiques, continues et non interrompues ;³

Attendu encore que la baie forme l'accès du territoire de la partie nord dont l'occupation et la possession ne sont point contestées, ce que suffirait, suivant le droit des gens, à la faire regarder comme comprise dans notre territoire ; considération qui fait l'objet de la troisième base de notre droit ;⁴

Attendu que, dans le cas simplement hypothétique où les titres invoqués feraient défaut, la Baie de Lourenço Marques aurait constitué une propriété Portugaise depuis 1629 par l'effet de la donation faite de son territoire à la Couronne de Portugal le 24 Mai de cette année, par le régule ou Empereur du Monomotapa, dont les domaines s'étendaient alors jusqu'aux environs du Cap de Bonne-Espérance, titre qui, pour cette cause, n'est invoqué que comme titre subsidiaire ;⁵

Attendu que, même en l'absence de ce titre et des titres précédents, (ce que nous n'admettons que par hypothèse) nous pourrions encore nous appuyer subsidiairement sur un autre titre, celui de la conquête, que nous aurions acquis depuis 1781 par le fait de l'expulsion des Autrichiens dans cette année ;⁶

Attendu que le droit du Portugal à la partie contestée de la baie a été reconnu par les régules respectifs du *Tembe* et du *Mapouto*, qui se sont toujours regardés comme vassaux de la Couronne de Portugal et qui ont toujours témoigné de cette vassalité par une série de faits qui impliquent une reconnaissance tacite et expresse de nos droits, comme le paiement de tributs, l'exercice de fonctions administratives et fiscales, etc., reconnaissance d'ailleurs solennellement et authentiquement ratifiée par ces deux régules en Octobre, 1823, et plus tard encore par celui du *Tembe* en 1857, et par celui du *Mapouto* en 1870 ;⁷

Attendu que notre droit a été également reconnu du seizième siècle jusqu'à nos jours, par les diverses nations de l'Europe, expressément ou tacitement, soit par des actes de leurs Gouvernements respectifs, soit par les écrits de leurs auteurs et dans leurs travaux géographiques qui tous représentent la baie comme entièrement comprise jusqu'au 26° 30' dans les limites de la Province de Mozambique ;⁸

Attendu que notre droit, reconnu par l'Angleterre expressément et tacitement avant 1817, et spécialement en 1721, a été encore expressément avoué par elle dans l'Article 2 de la Convention du 28 Juillet, 1817, où il était déclaré que le territoire compris entre la Baie de Lourenço Marques et le Cap Delgado appartenait au Portugal ;

Attendu que cet article ne laisse ni ne peut laisser aucun doute au sujet des mots *Baie de Lourenço Marques*, qui indiquent l'extrémité sud du territoire Portugais, puisqu'il sont toujours désigné et désignaient à l'époque de cette Convention la baie nommée aujourd'hui sur les cartes Anglaises *Delagoa Bay* ; et attendu que ces mots ne peuvent être compris que comme renfermant le sens *inclusivement* ainsi que cela a lieu pour les mots *Cabo Delgado* ;⁹

Attendu aussi que le droit de la nation Portugaise est d'une telle évidence que les

¹ Mémoire, p. 43 et suiv. [p. 70] ; et Réplique, p. 27 et suiv. [p. 192].

² Mémoire, p. 67 [p. 82] ; et Réplique, p. 31 et suiv. [p. 194].

³ Mémoire, p. 65 et suiv. [p. 81] ; et Réplique, p. 27 et suiv. [p. 192.]

⁴ Mémoire, p. 70 et suiv. [p. 83].

⁵ Réplique, p. 47 [p. 202] ; Réplique, Append. iii, Not. 5.

⁶ Mémoire, p. 44 et suiv. [p. 71] ; et Réplique, p. 14 [p. 185].

⁷ Mémoire, p. 74 [p. 85] ; et Réplique, p. 36 et suiv. [p. 196].

⁸ Mémoire, p. 72 [p. 84] ; et Réplique, p. 40 et suiv. [p. 198].

⁹ Mémoire, p. 83 et suiv. [p. 90] ; et Réplique, p. 66-54 [p. 211].

auteurs Anglais eux-mêmes, tant anciens que modernes, non-seulement n'osent pas le nier, mais encore l'avouent explicitement, même de nos jours;¹

Attendu que les prétentions de l'Angleterre à la partie méridionale de la baie (*Tembe et Mapouto*) sont inadmissibles, parce que;

Attendu, quant au *Mapouto*, que des Traités que l'Angleterre prétend avoir faits avec le régule respectif en 1823 il ne résulte aucune cession, à cette nation, de ce territoire ni des îles de l'*Unhaca* et des *Eléphants*, qui y sont comprises, fait qui, étant avoué, comme effectivement cela a lieu, par l'Angleterre elle-même, lui enlève toute légitimité pour disputer au Portugal la propriété ou la souveraineté de ce territoire;²

Attendu encore que, alors même que cette *exception péremptoire* n'existerait pas contre l'Angleterre, cette nation n'en aurait pas pour cela plus de droits aux territoires du *Tembe* et du *Mapouto*, et pour cela et outre ce qui est déjà exposé;

Attendu que les prétendus Traités faits avec les deux régules de ces territoires (seul titre produit par l'Angleterre), n'ont aucune *authenticité* et sont désavoués par ces régules;³

Attendu que, fussent-ils même véritables, ces Traités seraient *nuls dans la forme*, par le manque de qualité du Capitaine Owen, non validée par la ratification du Gouvernement Anglais, ratification devenue d'ailleurs impossible après les déclarations des mêmes régules; et qu'ils seraient *nuls dans le fond* puisqu'ils ont pour objet une chose qui appartenait déjà au Portugal et dont, par conséquent, ils ne pouvaient disposer;⁴

Attendu que cette nullité du *fond* par rapport aux susdites Conventions devient encore plus évidente si l'on considère que l'Angleterre ne pouvait ignorer le droit du Portugal qu'elle-même avait plus d'une fois reconnu antérieurement d'une manière expresse et tacite, surtout en 1721 et dans la Convention du 28 Juillet, 1817, célébrée avec le Portugal et dont l'Article 2 reconnaît expressément la Baie de Lourenço Marques comme formant l'extrémité sud des possessions Portugaises dans l'Afrique Orientale;⁵

Attendu, en outre, que les prétendus Traités ne peuvent avoir d'effet juridique, soit parce qu'ils n'ont jamais été suivis de possession par l'Angleterre, soit parce que, en outre, leur exécution a trouvé un obstacle international dans les protestations non interrompues des régules et du Gouvernement Portugais, ce qui est chose courante en droit des gens;⁶

Attendu que, spécialement pour ce qui concerne la prétendue cession du régule du *Tembe*, elle serait nulle, alors même qu'elle serait véritable, vu qu'elle contient la cession du territoire de *Mapouto* qui appartient à un autre régule;⁷

Attendu encore, pour ce qui a trait spécialement aux deux Conventions avec le *Mapouto*, du 3 et du 23 Août, 1823, que fussent-elles véritables, elles ne pouvaient avoir aucun effet favorable à l'Angleterre, d'abord parce qu'elle ne contiennent pas de cession de territoire, ensuite parce que même comme Traités de Commerce, elles seraient tombées en déchéance, puisque, suivant la lettre de ces mêmes Conventions, la première ne devait avoir de valeur que pendant quatre ans et la seconde pendant dix ans, laps de temps qui sont déjà écoulés;⁸

Attendu, en ce qui concerne ces Traités et tous les attentats commis par le Capitaine Owen (et qui sont restés jusqu'à ce jour sans réparation!) que ce capitaine a agi avec la plus insigne perfidie, qu'il a abusé des recommandations dont il était porteur pour les autorités Portugaises d'Afrique et qui avaient été sollicitées du Gouvernement Portugais par l'Angleterre, et qu'il s'est servi de la force maritime placée sous ses ordres pour traiter en ennemis le Gouverneur et la garnison de Lourenço Marques et cela avec plus de violence encore que s'il avait eu affaire à des colons Anglais.⁹

Attendu (laissant de côté les attentats et ne nous occupant que des Conventions) que ni l'Angleterre ni cet officier de sa marine ne peuvent alléguer leur ignorance de l'état du fait en 1823, d'abord parce que notre droit à la baie était reconnu par l'Angleterre avant cette époque, et ensuite parce que son désir de s'emparer de la baie date de

¹ Mémoire, p. 80 [p. 88]; et Réplique, p. 44 [p. 200].

² Réplique, p. 11 et suiv. [p. 184].

³ Mémoire, p. 90 et 102 [pp. 93, 99]; et Réplique, p. 57 et suiv. [p. 207].

⁴ Mémoire, p. 93 et suiv. [p. 95]; Réplique, p. 60 et suiv. [p. 208].

⁵ Mémoire, p. 83 et suiv. [p. 90]; et Réplique, p. 45 et 54 [pp. 201, 205].

⁶ Réplique, p. 61 et suiv. [p. 209].

⁷ Réplique, p. 58 [p. 207].

⁸ Réplique, p. 65 et suiv. [p. 211].

⁹ Mémoire, p. 102 [p. 99]; Réplique, p. 70 et suiv. [p. 213].

fort loin et s'est rendu évident à plusieurs reprises (quoiqu'il se soit montré et ait été toujours repoussé sous différentes formes) ; l'Angleterre déjà vers la fin du dix-septième siècle ayant tenté de mettre obstacle à notre commerce avec les Cafres ; ayant cherché par l'intrigue à les entraîner dans une révolte contre nous ; s'étant servi dans ce but, et parce qu'elle redoutait notre surveillance, d'un pavillon étranger et même de passe-ports Portugais obtenus subrepticement ; ayant tenté en 1720, d'ailleurs sans résultat, de s'établir dans la baie et ayant recours en dernier lieu à ce ridicule stratagème des prétendus Traités de 1823 avec les régules de ces contrées ;¹

Attendu que, deviendrait-il nécessaire d'avoir recours à des considérations d'équité ainsi que cela est autorisé par le Protocole, cette équité s'élèverait en faveur du Portugal pour ce qui concerne la décision relative à la Baie de Lourenço Marques, par l'effet d'une juste compensation des territoires indûment retenus par l'Angleterre, puisque ;

Attendu que, dans l'Article XIV du Traité du 23 Juin, 1661, par lequel le Portugal a cédé à l'Angleterre Bombay dans l'Inde et Tanger en Afrique, il a été stipulé que si quelque jour l'île de Ceylan prise par les Hollandais aux Portugais venait à tomber au pouvoir de l'Angleterre, "le Gouvernement Anglais s'engageait à rendre au Portugal la souveraineté et la possession de la ville et du port de Colombo,"² et que cette clause attend depuis deux siècles son exécution, quoique les Anglais aient reçu Ceylan des Hollandais ;

Attendu enfin qu'il est hors de doute que la Baie de Lourenço Marques embrasse jusqu'au 26° 30' de latitude sud, ce qui est suffisamment prouvé par la simple inspection des cartes géographiques :

Il devra sembler à l'arbitre que le droit du Portugal à toute cette baie, c'est-à-dire jusqu'au 26° 30', est indiscutable, qu'il repose sur des titres légitimes, et que l'Angleterre doit être déboutée de sa demande.

Le droit exige cette solution que, pour notre part, nous attendons avec une confiance égale à celle d'Etienne Pasquier, en plaidant, au seizième siècle, pour la ville d'Angoulême devant le Parlement de Paris : "Vous nous garderez la justice que l'on garde aux moindres de la France."³

APPENDICES.

APPENDICE I.

Questions de fait traitées dans le Mémoire et dans la Réplique du Portugal, et nécessaires à la Solution de la Question de Droit.

1. La Baie de Lourenço Marques a-t-elle été découverte par les Portugais au commencement du seizième siècle ?

Mémoire, p. 6 [p. 52], et Append. I, No. 1, p. 111 [p. 102].
Documents Nos. 1 et 5.

2. A-t-elle été exploitée dès 1545, au moyen de navires de commerce de Mozambique qui s'y rendaient tous les ans ?

Mémoire, p. 6 [p. 52], et Append. I, No. 2, p. 113 [p. 102], et No. 3, p. 114 [p. 103].
Documents Nos. 6, 7, 98, 99, et 102.

3. Les Portugais établirent-ils des factoreries dans la baie au seizième siècle même, factoreries qui existaient encore au dix-septième siècle ?

Mémoire, p. 34 et suiv. [p. 66] ; Réplique, p. 17 et suiv. [p. 187].
Documents Nos. 95, 99, et 101.

4. Les Portugais ont-ils occupé, au moyen de ces factoreries, les points principaux de la baie tels que l'*Unhaca*, le *Manhiça*, l'île *Chefine* et le fleuve du *Saint-Esprit* ?

Mémoire, p. 36 [p. 67] ; Réplique, p. 17 et suiv. [p. 187].
Documents cités.

5. L'une de ces factoreries, (celle de l'île *Chefine*) fut-elle fortifiée au dix-septième siècle même ?

Mémoire, p. 38 [p. 68] ; Réplique, p. 19 [p. 188].
Documents Nos. 21, 101, 119, et 121, et la deuxième carte annexée à la Réplique.

¹ Réplique, p. 66 et suiv. [p. 211].

² Document No. 100.

³ Berryer, "Leçons et Modèles d'Eloquence Judiciaire."

6. Dès le commencement du dix-huitième siècle des fortifications en règle furent-elles ajoutées aux factoreries ?
Mémoire, p. 38 et suiv. [p. 68] ; Réplique, p. 19 et suiv. [p. 188].
7. L'une de ces fortifications se trouvait-elle située dans l'*Unhaca* (territoire de *Mapouto*) ?
Mémoire, p. 38 et suiv. [p. 68] ; Réplique, p. 23 [p. 190].
Document No. 120, § 1.
8. Une autre de ces fortifications était-elle élevée sur la rive sud du fleuve du *Saint-Esprit* (territoire du *Tembe*) ?
Mémoire, p. 39 [p. 69] ; Réplique, p. 19 et suiv. [p. 188].
9. Avons-nous élevé, outre cela, dans le *Tembe* un monument commémoratif de notre prise de possession ?
Mémoire, p. 64 [p. 81] ; Réplique, p. 21 [p. 189].
Documents Nos. 34 et 82.
10. Plus tard, en 1781, avons-nous établi un fort et un village sur la rive nord de ce même fleuve, sur les terres de *Matolla* ?
Mémoire, p. 39 [p. 69] ; Réplique, p. 20 [p. 188].
Documents Nos. 120 et 122.
11. Le village ayant été détruit en 1796 par les corsaires Français, avons-nous rétabli notre fort dans le *Tembe*, à son ancien emplacement ?
Réplique, p. 20 [p. 188].
Documents Nos. 128 et 129.
12. Le village de la rive nord ayant été de nouveau occupé ainsi que le fort, laissâmes-nous dans le *Tembe* un poste militaire et fiscal, qui existait encore en 1818 ?
Réplique, p. 20 [p. 188].
Documents Nos. 129, 132, et 133.
13. Existe-t-il encore des traces de notre fort dans le *Tembe* ?
Mémoire, p. 39 [p. 69] ; Réplique, p. 21 [p. 189].
14. L'existence du fort du *Tembe* et l'occupation du *Mapouto* sont-elles avouées par l'Angleterre ?
Mémoire, p. 39 et suiv. [p. 69] ; Réplique, pp. 21 et 26 [pp. 189, 191].
Documents Nos. 34, 70, et 82.
15. L'Angleterre a-t-elle prouvé que nous n'occupions ces territoires que moyennant une rente ou un cens payé par nous aux régules ?
Réplique, p. 21 et suiv. [p. 189].
16. Les deux régules du *Mapouto* et du *Tembe* se sont-ils reconnus vassaux du Portugal par le fait du paiement de tributs, de l'exercice de fonctions administratives et fiscales, &c. ?
Mémoire, p. 74 et suiv. [p. 85] ; Réplique, p. 36 [p. 196].
Documents Nos. 84-86 et 134.
17. En 1823, ces deux régules ont-ils reconnu par écrit leur très ancienne qualité de vassaux du Portugal ?
Mémoire, p. 75 [p. 86].
Documents Nos. 32-34.
18. Les deux régules ont-ils encore plus tard reconnu ce même vasselage ?
Mémoire, p. 74 et suiv. [p. 85] ; Réplique, p. 39 [p. 198].
Documents Nos. 83 et 135.
19. En l'année même 1823 les régules ont-ils désavoué explicitement et implicitement les Conventions ou Traités avec l'Angleterre qui leur étaient attribuées ?
Mémoire, p. 90 [p. 93].
Documents Nos. 32-34.
20. Le Capitaine Owen avait-il qualité pour faire des Traités avec ces régules ? Eut-il eu cette qualité, était-il revêtu des pouvoirs nécessaires ?
Mémoire, p. 93 [p. 95].
21. Existe-t-il un acte quelconque du Gouvernement Anglais ratifiant la conduite d'Owen ? Et quand cet acte existerait, la réclamation des régules en Octobre 1823 a-t-elle été antérieure à cette ratification ?
Mémoire, p. 93 et suiv. [p. 95].
22. Le droit du Portugal à toute la Baie de Lourenço Marques a-t-il été reconnu par les autres nations et par les écrivains étrangers dans leurs travaux géographiques ?
Mémoire, p. 77 et suiv. [p. 87] ; Réplique, p. 40 et suiv. [p. 198].
Documents Nos. 29-31 et 88.

23. Ce droit a-t-il été reconnu par les auteurs Anglais ?
Mémoire, p. 80 [p. 88] ; Réplique, p. 44 [p. 200].
Document No. 87.
24. Ce droit a-t-il été reconnu expressément et tacitement par le Gouvernement Anglais, surtout en 1721, en 1815, en 1817 et même postérieurement aux cessions des régules, en 1823 ?
Mémoire, p. 83 et suiv. [p. 90] ; Réplique, p. 46 et 54 [pp. 201, 205].
Documents Nos. 89, 90, 104, et 137.
25. Le Gouvernement Anglais a-t-il avoué que le Traité fait avec le régule ne lui assurait aucun droit sur le territoire de Mapouto ?
Réplique, p. 11 et suiv. [p. 184].
26. Le Gouvernement Portugais a-t-il continuellement soutenu son droit et protesté, contre toute atteinte qui y aurait été portée ?
Mémoire, p. 50 et suiv. [p. 74] ; Réplique, p. 64 [p. 210].
Documents Nos. 44-46, 48-54, 56, 57, 61, 63, 67, 69, et 72.
27. En 1781, le Gouvernement Portugais a-t-il chassé de la baie les Autrichiens qui espéraient s'y établir au préjudice du Portugal ?
Mémoire, p. 44 et suiv. [p. 71].
Documents Nos. 23-31.
28. Les Anglais ont-ils plus d'une fois essayé, à l'aide d'un faux pavillon et de passeports obtenus subrepticement, de fomenter la rébellion des Cafres contre les Portugais ?
Réplique, p. 68 [p. 212].
Documents Nos. 121, 125-127.
29. Est-il ou non vrai que la Baie de Lourenço Marques, dans toute son étendue, s'avance jusqu'au 26° 30' de latitude sud ?
Carte No. 1 annexée au Mémoire.

APPENDICE II.

Indication des Principales Questions de Droit traitées dans le Mémoire et la Réplique.

1. Le défaut de légitimité d'une des parties dans l'affaire soumise à la décision de l'arbitre, peut-il constituer, en droit international, une exception péremptoire du fond et être présenté en tout état de cause ?
Réplique, p. 11 et suiv. [p. 184].
2. La priorité de la découverte et de l'exploitation d'un territoire étant, au seizième siècle, un titre légitime d'acquisition de droit, la valeur juridique de ce titre doit-il aujourd'hui être apprécié d'après les principes de droit en vigueur à cette époque ?
Mémoire, p. 63 [p. 80] ; Réplique, p. 15 et suiv. [p. 186].
3. Ce titre ayant été regardé comme légitime d'après la décision d'un arbitre par rapport à un territoire disputé entre les *mêmes* parties, cette décision peut-elle faire droit entre elles quant à un autre territoire disputé, alors même que ce point serait un des considérants ou une des bases de la décision ? En d'autres termes, les *motifs objectifs* d'un jugement peuvent-ils constituer *chose jugée*, comme leur dispositif ?
Mémoire, p. 64 et suiv. [p. 81].
4. Quelle est l'importance de la *possession* en droit international ? Est-elle par elle seule un titre de droit en ce qui concerne un territoire, ou n'est-elle qu'une considération subsidiaire pour confirmer, ou appuyer d'autres titres ?
Mémoire, p. 65 et suiv. [p. 81].
5. Quel caractère doit avoir la possession, en droit international, pour être prise en considération ?
Mémoire, p. 66 [p. 81] ; Réplique, p. 27 et suiv. [p. 192].
6. Pour l'acquisition de la possession d'une *toute*, en droit civil et international, le contact avec *toutes* ses parties est-il indispensable ou suffit-il de la possibilité physique d'exercer sur la chose une action personnelle et d'en éloigner toute influence étrangère ?
Mémoire, p. 67 [p. 82] ; Réplique, p. 25 et suiv. [p. 191].
7. Pour *conserver* la possession du territoire quelconque est-il nécessaire de la couvrir *entièrement* d'établissements, ou suffit-il de les avoir sur une partie du tout pour conserver cette possession *solo animo* ?
Mémoire, p. 67 [p. 82] ; Réplique, p. 32 et suiv. [p. 194].

8. La possession peut-elle s'exercer et se conserver, indépendamment de tous établissements, par l'exploitation du territoire quand même cette exploitation ne serait pas exercée par des actes quotidiens ?

Mémoire, p. 68 [p. 82] ; Réplique, p. 33 et suiv. [p. 195].

9. La possession peut-elle se conserver *solo animo* ?

Mémoire, p. 67 [p. 82] ; Réplique, p. 32 et suiv. [p. 194].

10. La possession peut-elle se conserver par des traces qui démontrent sa continuité, surtout lorsque la volonté du non-abandon est évidente ?

Mémoire, p. 68 [p. 82] ; Réplique, p. 34 [p. 195].

11. L'intention de l'abandon peut-elle être présumée ou doit-elle être manifestée ?

Réplique, p. 33 [p. 195].

12. La continuité de la possession des droits (comme l'est la souveraineté), s'établit-elle par des actes réitérés de temps en temps, suivant la nécessité que nous éprouvons de nous en servir ?

Mémoire, p. 68 [p. 82] ; Réplique, p. 35 [p. 196].

13. En quoi consiste le caractère de la continuité de la possession ?

Mémoire, p. 67 [p. 82] ; Réplique, p. 30 [p. 193].

14. Le détenteur précaire ou le détenteur au nom d'autrui peut-il intervertir le titre de la possession ?

Réplique, p. 27 [p. 192].

15. Les baies et ports qui forment l'accès d'un territoire sont-ils considérés comme dépendances de ce territoire ?

Mémoire, p. 70 et suiv. [p. 83].

16. Les tributs payés par les régules d'un territoire sont-ils une reconnaissance de souveraineté ?

Mémoire, p. 76 [p. 86].

17. A qui revient le devoir de prouver, à celui qui affirme ou à celui qui nie ?

Réplique, p. 38 [p. 197].

18. Un point douteux d'un Traité peut-il être interprété par une seule des parties ou doit-il l'être par les deux ?

Réplique, p. 47 [p. 202].

19. Lorsque le sens d'un Traité est douteux, la question qui en résulte doit-elle être résolue d'un commun accord ou bien au moyen d'un arbitrage ?

Réplique, p. 47 [p. 202].

20. Peut-on admettre l'interprétation restrictive de la lettre claire et précise des Traités ?

Mémoire, p. 86 [p. 91] ; Réplique, p. 48 [p. 202].

21. L'interprétation d'un Traité doit-elle être soumise aux règles de l'interprétation grammaticale et logique ?

Réplique, p. 47 [p. 202].

22. Les termes employés dans un Traité pour désigner une certaine portion de territoire doivent-ils être pris dans le sens qu'ils avaient à l'époque où ce Traité fut conclu ?

Mémoire, p. 86 [p. 91] ; Réplique, p. 49 [p. 203].

23. Si l'une des parties veut prendre ces termes dans un sens différent, doit-elle au moment de conclure le Traité faire les restrictions nécessaires ?

Mémoire, p. 87 [p. 92] ; Réplique, p. 50 [p. 203].

24. Les Traités doivent-ils être compris dans un sens qui soit en harmonie avec le droit public et civil admis surtout dans le pays où ils doivent recevoir leur exécution ?

Réplique, p. 49 [p. 203].

25. Les dispositions *énonciatives* ayant un rapport direct avec le *dispositif* obligent-elles autant que ce dernier ?

Réplique, p. 51 [p. 204].

26. Tout Traité fait par une personne non publique et non autorisée par sa position à le faire, devient-il nul ?

Mémoire, p. 113 [p. 103].

27. Cette nullité peut-elle postérieurement être couverte par la ratification du Gouvernement respectif ?

Mémoire, p. 93 [p. 95].

28. Et quel est l'effet de cette ratification si dans l'intervalle l'autre partie se rétracte ?

Mémoire, *ibid.*

29. Un Traité fait par celui qui n'a pas qualité peut-il du moins être considéré comme les *sponsiones* ?

Mémoire, p. 94 [p. 95].

30. La libre expression de la volonté des deux parties est-elle essentielle à la validité du Traité ?

Mémoire, p. 94 [p. 95].

31. Le Traité qui contient une cession de la chose d'autrui est-il nul ?

Mémoire, p. 97 [p. 97] ; Réplique, p. 61 [p. 209].

32. La nullité est-elle radicale et absolue ou simplement relative ?

Réplique, p. 61 [p. 209].

33. L'inexécution par l'une des parties des clauses d'un Traité, affranchit-elle l'autre partie ?

Mémoire, p. 98 [p. 97].

34. En droit international la tradition est-elle nécessaire pour la transmission de la propriété ?

Réplique, p. 63 [p. 210].

35. Et si la tradition n'est pas nécessaire, la possession, l'est-elle, en droit international, pour que la cession d'un territoire soit suivie d'effet ?

Réplique, p. 62 [p. 209].

36. L'existence de graves embarras internationaux empêche-t-elle l'effet de la cession d'un territoire non suivie de possession ?

Réplique, p. 62 et 64 [pp. 209, 210].

37. Les Traités dont la durée est subordonnée à un certain laps de temps, tombent-ils en déchéance ce temps écoulé ?

Réplique, p. 55 et suiv. [p. 206].

38. Le principe de l'indivisibilité de l'aveu est-il absolu ou bien a-t-il des exceptions ? et s'il en a, quelles sont-elles ?

Réplique, p. 22 [p. 189].

39. L'usage d'un faux pavillon est-il ou non condamnable en droit des gens ?

Réplique, p. 68 [p. 212].

APPENDICE III.

Notes au Premier Mémoire.

Note 1, p. 3 [p. 51].

La rivière *Pongola* vient se jeter dans le *Mapouto*, près des monts du *Lebombo*, par 26° 30'.

Note 2, p. 3 [p. 51].

1. La pointe *Mahona* est connue aussi sous le nom de *Pointe du Catembe*.

2. Le fleuve du *Saint-Esprit* est également désigné sur d'anciennes cartes Hollandaises par les mots *Grand fleuve*.

3. La rivière de *Lourenço Marques* (que les Anglais nomment *Dundas River*, et qui vient se jeter dans le fleuve du *Saint-Esprit*) est nommé *Umbolosi* par les indigènes.

4. C'est par une erreur d'impression qu'il est dit que le *Tembe* est navigable pendant soixante milles, jusqu'aux pieds du *Lebombo* ; c'est à la Rivière de *Lourenço Marques* que se rapporte le Mémoire.

Le *Tembe* n'est pas à proprement parler un fleuve, et c'est par erreur qu'il est ainsi représenté sur les cartes Anglaises ; c'est plutôt un bras de mer qui de l'estuaire du fleuve du *Saint-Esprit* pénètre dans le territoire du *Tembe*.

Note 3, p. 13 [p. 56].

L'exploration maritime de Manuel Mesquita Perestrello depuis le Cap de Bonne-Espérance jusqu'au Cap des Courants, en y comprenant la Baie de Lourenço Marques, eut lieu du 22 Novembre, 1575, au 13 Mars, 1576.

La notice de cette exploration, écrite par lui-même, se trouve aussi au Musée Britannique de Londres sous le titre : "Roteiro dos portos, alturas, cabos, conhecenças, resguardos, e sondas que ha por toda a costa desde o Cabo da Boa Esperança até ao das Correntes." Voir le "Catalogue of Additions to the Manuscripts in the British Museum," London, 1864, p. 325, No. 16,932.

Note 4, p. 48 [p. 73].

Le Roi *Capella* du *Tembe* était le Chef dont, encore vers la fin du dernier siècle, étaient tributaires tous les régules du sud de la Baie, en deçà de la rive méridionale du fleuve du Saint-Esprit. Les domaines s'étendaient à 200 milles dans l'intérieur et sur une longueur de 100 milles le long de la côte, ou, pour parler le langage des indigènes, comprenaient dix journées de marche en longueur et cinq en largeur.

Les principaux Chefs qui lui payaient un tribut étaient *Jova*, *Oangova*, *Mutual*, *Mallambana*, *Oancoma*, *Panella*, *Mapouto*, *Machalamba*, *Corro*, *Chenandlo*, *Gomano*, et *Machechuana*.

De ces treize Chefs *Oangova* était fils du vieux *Capella*, qui en 1798, avait environ soixante ans, et *Jova*, le plus puissant d'entre eux, était le neveu de ce même *Capella*.

Le Secrétaire de ce régule se nommait *Johannes*, et était fils du *Roi de l'Eau*, son premier Ministre.

Aujourd'hui *Capella* est de beaucoup moins puissant que le régule du *Mapouto*.

Note 5, p. 73 [p. 85].

Aux textes produits dans le Mémoire pour montrer que les domaines du Monomotapa s'étendaient au dix-septième siècle, jusqu'aux environs du Cap de Bonne-Espérance, nous devons ajouter encore le témoignage de Marmal, dans son "Afrique," traduction de Nicholas Perrot (Paris, 1667)¹ :—"Sofala est une grande contrée sous la domination d'un Prince nègre que l'on nomme Bénamotapa ou Bénamotacha (Monomotapa), à qui les Portugais donnent le titre d'Empereur de l'Or, à cause de ses mines. Le pays commence à la frontière du Congo et enferme de vastes provinces."²

Remarque.

Nous donnons, à la fin de ce volume, au No. 4, un *fac-simile* de la carte de la côte d'Afrique, qui s'étend du Bonne-Espérance au Cap des Courants, et qui a été dressée au seizième siècle (1575), sous le règne de Don Sébastien, par Manuel de Mesquita Perestrelle, cosmographe Portugais. Cette carte accompagne le routier de ce même cosmographe, qui se trouve en Portugal, à la bibliothèque d'Evora, et dont il existe une copie au Musée Britannique de Londres, comme nous l'avons dit dans l'Appendice 3, Note 3.

Ce précieux document sert à corroborer ce que nous avons dit à la page 41 de cette réplique.

DOCUMENTS.

(No. 95.)

*Rapport de Diogo do Couto sur une Peuplade Portugaise à l'Intérieur de Mapouto en 1589—1611.*²

(Traduction.)

Arrivés à l'embouchure du fleuve de l'*Inhaca* ou de *Mapouto*, et étant descendus à terre, ils apprirent que dans le village où habitait le Roi, à douze lieues en remontant le fleuve, se trouvaient quelques Portugais; pleins de joie à cette nouvelle ils ressaisirent les rames et à grande peine, car ils étaient fort affaiblis, ils remontèrent le fleuve et au bout de douze jours arrivèrent au village, où ils furent reçus par Jeronymo Leitão et quelques compagnons qui, depuis un mois environ étaient partis du fleuve de Lourenço Marques, comme nous l'avons dit plus haut, sur une pirogue chargée d'ivoire.

(No. 96.)

*Notice de la Factorerie du Manhiça dans la Baie de Lourenço Marques, par Francisco Vaz de Almada, 1625.*³

(Traduction.)

Aussitôt que nous eûmes touché la terre ferme, nous nous mîmes en marche en suivant la plage jusqu'à ce que nous fussions arrivés sur les terres du Roi nommé le *Manhiça*, où nous avons notre plus vaste factorerie.

¹ Tome iii, p. 113.

² Diogo do Couto, "Relation du Naufrage du Vaisseau 'Saint Thomas,'" Lisbonne, 1611.

³ "Traité du désastre survenu au vaisseau 'Saint Jean Baptiste,' et du voyage que les personnes qui se sauvèrent, firent depuis le 33e degré au Cap de Bonne-Espérance, où il fit naufrage, en 1623, jusqu'à Sofala," Lisbonne, 1625, p. 75.

(No. 97.)

Témoignage de Bento Teixeira Feio sur l'Existence de cinq Factoreries Portugaises dans la Baie de Lourenço Marques, au dix-septième siècle, 1650.¹

(Traduction.)

Trois jours après notre arrivée (dans la baie) on distribua dans les cinq factoreries les équipages du vaisseau et du galion, composés de cent vingt-quatre Portugais et de trente noirs captifs.

(No. 98.)

Témoignage du même auteur sur les Factoreries de l'Unhaca et de l'île Chefine, 1650.²

(Traduction.)

Le Roi de l'Unhaca nous reçut et nous accueillit avec amitié; il nous apprit que la goëlette de Mozambique venait d'arriver à l'île Chefine, mais qu'elle n'avait pas encore touché à la factorerie de cette île de l'Unhaca, comme c'était l'habitude.

(No. 99.)

Témoignage du même auteur sur les Factoreries du Manhiça au Nord de la Baie, 1650.³

(Traduction.)

A grande peine les nôtres parvinrent à l'île Chéfine (Quiufine), où ils trouvèrent une goëlette dont l'équipage leur fit accueil ainsi que le Capitaine Diogo Velho da Fonseca, né à Villa Franca de Xira, marié à Mozambique, et qui était allé établir les factoreries du Manhiça.

(No. 100.)

Traité du 23 Juin, 1661, entre le Portugal et l'Angleterre.⁴

(Traduction.)

ARTICLE XIV.

Si dans quelque circonstance la dite île de Ceylan vient à tomber entre les mains du Roi de la Grande Bretagne, il s'oblige et s'engage, avec le consentement et l'approbation de son Conseil, à rendre et remettre effectivement le domaine et la possession de la ville et du port de Columbo au Roi de Portugal.

(No. 101.)

Texte de Pierre Duval, Géographe Français, concernant la Factorerie fortifiée des Portugais à Lourenço Marques au Cap des Courants au dix-septième siècle, 1679.⁴

Voici ce qui en reste à la Couronne de Portugal; en Carferie, qui est la coste de Mono-Motapa, le Château de Cofala de village de Sena, une factorerie avec un petit fort au Cap des Corrientes et autres maisons fortes aux entrées du Cuama et des rivières de la Coste. . . . Le trafic en toute la Coste d'Afrique, depuis le Cap de Bonne Espérance, &c.

(No. 102.)

Lettre du Vice-Roi de l'Inde Don Rodrigo da Costa au Gouvernement, lui communiquant qu'il avait donné l'ordre de continuer les voyages réguliers entre Mozambique et Lourenço Marques, afin que l'on ne pût pas dire que nous abandonnions le Commerce de ce Port, 24 Janvier, 1687.⁵

(Traduction.)

Sire,

Goa, le 24 Janvier, 1687.

Don Miguel de Almeida a écrit de Mozambique la lettre qui commence *Le navire du Cap des Courants* et le procès-verbal que j'envoie à votre Majesté de la délibération prise dans ce fort afin de ne pas envoyer cette année, comme d'habitude, les navires au Cap des Courants⁶ à cause des Anglais

¹ "Relation du naufrage, au Cap de Bonne-Espérance, des vaisseaux 'Saint Sacrement' et 'Notre Dame de Atalaia,' revenant de l'Inde, et dont le Capitaine-Major était Louis de Miranda Henriques, en 1647," par Bento Teixeira Foyo, Lisbonne, 1650, p. 84.

² Ibid., p. 80.

³ George Chalmers, "Collection of Treaties between Great Britain and other Powers," tome ii, p. 286 et suivantes; Borges de Castro, "Collecção de Tratados," tome i, p. 234 et suivantes.

⁴ "Voyage de François Pyrard de Laval," nouvelle édition, avec des observations géographiques par le Sieur Duval, Paris, 1679, p. 77 et suivantes.

⁵ Livre des lettres écrites à Sa Majesté par Don Rodrigo da Costa, Conseiller, Gouverneur, et Capitaine-Général de l'Inde, dans les années 1686, 1687, 1688, &c., f. 14 (MS. de M. Bicker).

⁶ Voyez la note 2e de la p. 11.

qui commencent à y faire le commerce, ce qu'on ne peut empêcher pour le moment. J'ai toutefois ordonné que l'on continuât les voyages, attendu qu'il m'a semblé préférable que les finances de votre Majesté souffrissent un léger dommage, jusqu'au moment où on y pourra remédier, à voir les étrangers s'emparer de ce commerce, prenant notre abandon pour prétexte. Votre Majesté appréciant ma conduite à ce sujet, prendra la résolution qu'elle jugera la plus convenable.

Dieu garde, &c.

(Signé) DON RODRIGO DA COSTA.

ANNEXE No. 1.

Lettre que Don Miguel de Almeida, Capitaine-Général de Mozambique et Rios, écrivit au Comte et Vice-Roi au sujet du Navire de Voyage du Cap des Courants.

Le navire du Cap des Courants n'a pas apporté tant de marchandises cette année, à cause des cinq navires Anglais qui s'y trouvaient faisant le commerce; j'ai réfléchi au peu d'avantage qu'il y aurait, pour Sa Majesté, à y envoyer des navires à la prochaine mousson, attendu que les Anglais ont acheté une grande quantité d'ivoire, ce qui est cause qu'il n'en est pas resté dans le pays, ou que celui qui sera apporté de l'intérieur n'arrivera que l'année prochaine, d'après les renseignements de ceux qui sont habitués à ce commerce, et vu encore le risque qu'il y aurait à courir que les Anglais qui continueront à faire ce trafic ne s'avisent d'attaquer notre navire qui se trouverait sans défense; j'ai donc cru devoir soumettre cette question à l'assemblée (*junta*) des prélats et aux ministres de la défense et guerre de cette forteresse. Il y a été résolu ce que votre Excellence verra dans le rapport que je lui envoie. Je n'ai rien de plus à ajouter et si quelque événement survient pendant le temps que les navires de commerce seront ici, j'en ferai part à votre Excellence par cette seconde voie.

ANNEXE No. 2.

Résolution prise par la Junta de Mozambique au sujet du Navire de Voyage du Cap des Courants.

Il a été résolu dans le Conseil que le Gouverneur et Capitaine-Général de cette Province Don Miguel de Almeida, a rassemblé au palais de la forteresse où se trouve sa résidence, et auquel ont assisté le Lieutenant-Général et Surintendant Francisco de Avezal Ramires, le Capitaine et Gouverneur du Fort, Paschoal de Abreu Sarmiento, le Majordome et Alcade João Machado Sacoto, le Révérend Père Recteur du Collège des Jésuites Manuel Freire, le Révérend Père Domingos, Dias Ribeiro, Prieur et Archiprêtre, et le Révérend Père João da Magdalena, Vicaire de St. Dominique, qu'il ne convenait pas d'envoyer en Octobre un navire au Cap des Courants attendu que dans l'actuelle mousson on en a rapporté un lot de marchandises fort restreint, et cela parce qu'il se trouvait dans ce port cinq navires Anglais qui y achetaient de l'ivoire et de l'ambre en échange de marchandises supérieures en qualité aux nôtres, et parce que les contrées voisines se trouvent pour cette raison dépourvues d'ivoire de bonne qualité; nouvelles qui ont été apportées par le capitaine du voyage Domingos Lourenço ainsi que par ses compagnons. Le voyage d'aller et retour d'un navire serait donc onéreux pour les finances royales, puisqu'il se ferait sans produire aucunes marchandises et qu'il causerait ainsi de grandes dépenses en pure perte. Outre cela, on doit rendre compte à M. le Comte et Vice-Roi de l'arrivée dans ce port de ces cinq navires Anglais, car il est à croire qu'ils pensent à continuer leur commerce en vue de quoi le dit Vice-Roi décidera en quelle forme devront avoir lieu les voyages de nos navires, qui peuvent être attaqués et enlevés par les Anglais, attendu que ces navires sont dépourvus d'artillerie suffisante pour leur défense et que l'on ne peut mieux les armer sans dégarnir ce fort; le dit Vice-Roi pourra envoyer un navire mieux armé afin qu'on puisse avec plus de sûreté continuer ce voyage et ce commerce, ou bien ordonner ce qui lui semblera convenable; il convient donc pour ces motifs d'attendre ses ordres, surtout puisqu'il n'y a rien à perdre en ne faisant pas le dit voyage cette année, tandis que l'on a à courir de grands risques à le faire avec si peu de probabilités de succès. Tous étant tombés d'accord sur cette résolution avec le dit Gouverneur et Capitaine-Général, il m'a ordonné, à moi, Manuel da Fonseca e Paiva, greffier de cette surintendance, de rédiger ce procès-verbal signé par tous les susdits, et de l'enregistrer au livre de la surintendance et dans celui de la factorerie, afin que cela puisse être su à l'avenir. C'est pourquoi moi, greffier, j'ai rédigé cet acte.

Mozambique, le 6 Avril, 1686.

(Signé)

D. MIGUEL DE ALMEIDA.
FRANCISCO DE AVEZAL ET RAMIRES.
PASCHOAL DE ABREU SARMIENTO ET MORAES.
JOAO MACHADO SACOTO.
MANUEL FREIRE.
DOMINGOS DIAS RIBEIRO.
FR. JOAO DE MAGDALENA.

Et moi Manuel da Fonseca e Paiva, greffier de cette surintendance, ai fait écrire le présent procès-verbal.

*Lettre Royale au Vice-Roi de l'Inde lui annonçant le départ d'un Vaisseau de Guerre pour empêcher l'Etablissement des Anglais à Lourenço Marques, 16 Avril, 1721.*¹

(Traduction.)

Vice-Roi et Capitaine-Général de l'Inde, ami. Moi, le Roi, je vous salue

Ayant ouï dire que la Compagnie de l'Inde Orientale d'Angleterre avait résolu de faire un nouvel établissement sur la côte d'Afrique, et dans la Baie de Lourenço Marques, qui appartient à ma Couronne comme la pièce qui accompagne cette lettre vous le prouvera, et que cette même Compagnie avait fait partir sur des vaisseaux de guerre et de commerce des gens qui devaient s'établir dans la susdite baie, j'ai ordonné que des notes fussent envoyées à l'Ambassadeur Extraordinaire d'Angleterre à ma Cour, et d'autres présentées par mon Ministre à Londres, afin que le Roi de la Grande Bretagne, mon bon ami et cousin, voulût bien ordonner à la dite Compagnie de s'abstenir d'un pareil attentat contre les Traités et les bonnes relations qui existent entre les deux Couronnes, et de, au cas où la Compagnie aurait déjà envoyé les dits vaisseaux, comme le bruit en a couru, lui expédier sans retard l'ordre de ne point poursuivre l'exécution de cet attentat. Quoique je doive attendre de l'étroite alliance qui unit ma Couronne à celle d'Angleterre, l'abandon de ce projet des Anglais, j'ai cru cependant convenable d'envoyer un navire de guerre dans la Baie de Lourenço Marques, avec les hommes nécessaires pour l'occuper et la défendre, en leur enjoignant d'en déloger les Anglais dans le cas où ils s'y trouverent.

Faite à Lisbonne occidentale, le 16 Avril, 1721.

(Signé)

DIOGO DE MENDONÇA CORTE REAL.

(Signé)

LE ROI.

ANNEXE.

Il est certain que les Portugais furent les premiers qui découvrirent la côte orientale de l'Afrique et les premiers qui doublèrent le Cap de Bonne-Espérance, ce qui ressort non-seulement du témoignage de tous les historiens, des actes de possession et de la colonne commémorative sous l'invocation de Saint-Grégoire que Bartholomeu Dias y fit élever d'après les ordres du Roi Jean II, à l'endroit nommé aujourd'hui *Pontas do Padrão* à la hauteur de 33° au sud, mais aussi parce que toute cette côte porte encore aujourd'hui des noms Portugais, et que nous en avons la possession depuis plus de deux siècles sans que jamais personne ne nous l'ait contestée. Nous devons donc nous maintenir depuis le Cap de Bonne-Espérance jusqu'à celui de Guardafui, attendu que, au nord de Mozambique, aujourd'hui en notre possession, nous avons toujours établi nos comptoirs et nos forts dans les Royaumes de Quiloa et de Melinde, et dans celui de Mombaca que nous avons dernièrement perdu, et que les Arabes nous ont pris, mais sur lequel nous espérons rétablir notre domination. Au sud de Mozambique, la souveraineté du Portugal s'est mieux conservée, puisque nous y possédons le siège du Gouvernement et, vers le sud, Sofala, Quilimane, Senna, et autres places, ainsi que la Baie de Lourenço Marques et Inhambane où nous avons toujours eu nos forts, notre commerce, et nos factoreries qui s'étendent depuis le Cap des Courants, jusqu'à la terre de Natal et à la Rivière de l'Infant près de laquelle se trouvent les Iles *Chãos* où s'élève la colonne commémorative de Bartholomeu Dias, comme nous l'avons dit plus haut.

Aux Gouverneurs de Mozambique appartient le Gouvernement de toute cette côte qui s'étend du Cap de Bonne-Espérance au Cap Delgado; de ce point vers le nord commencerait le Gouvernement de Mombaca et des colonies des autres royaumes. Notre droit est prouvé, non-seulement par la découverte et la première occupation, mais aussi par la possession immémoriale, la domination, les actes de possession, et les tributs qui nous y sont payés par les indigènes qui reconnaissent d'autant mieux notre souveraineté qu'ils ont recours aux Vice-Rois de l'Inde auxquels ils envoient leurs flèches trempées de sang pour leur témoigner que, en leur qualité de représentants du Roi de Portugal, ils doivent les délivrer du joug des Arabes et d'autres peuples; c'est ainsi qu'ils viennent d'en user envers le Comte de Ericeira qui a tenté de restaurer le Gouvernement de Mombaca, ce que les auteurs Anglais ont appuyé puisque le Dr. Selden, dans son "*Mare Clausum*," a réfuté ce que Hugo Grotius avait écrit contre les Portugais dans son "*Mare Liberum*." On trouvera bien peu de cartes anciennes ou modernes sur lesquelles notre possession de ces territoires ne soit point marquée en gros caractères, sous le nom de *Cafraria Lusitanis*. Les terres ainsi désignées dans le grand Traité de l'Afrique, de Dapper, géographe Flamand, s'étendent depuis les Iles *Chãos* et le fleuve de l'Infant, vers le nord, jusqu'aux points déjà mentionnés. Le même Dapper, se rapportant au Royaume de Sofalla, lui assigne comme dépendances la côte entre le fleuve de Cuama et celui de Saint-Esprit ou de Lourenço Marques, assurant que ce navigateur l'a exploré, en 1545, et que, en l'année 1500, les Portugais y avaient élevé un fort pour mettre les Cafres sous leur joug, et ajoutant que les Arabes seuls troublèrent la souveraineté des Portugais sur cette côte. Iarrie affirme, et avec lui Espilbergen, que les Rois de ces contrées sont tributaires du Portugal, ainsi que le furent d'autres Rois soumis à la Couronne Portugaise par Don Francisco de Almeida et par quelques autres Vice-Rois de l'Inde. A ce propos Dapper combat l'assertion de Sanut qui prétend que les Portugais ont abandonné cette côte à cause de sa stérilité. Daviti Errecoles (*sic*) d'accord avec de nombreux auteurs, a démontré la souveraineté Portugaise sur cette côte dans son 3^{ème} volume du "*Monde*," feuille 16 de l'édition de Paris de 1660, et il a développé cette opinion aux feuilles 490 et précédentes, plaçant en notre possession toute la région au nord et au sud du Cap des Courants, ainsi que la partie du Royaume de Sofalla, qui s'étend depuis le grand fleuve du Saint-Esprit, jusqu'à celui de Cuama en y ajoutant le pays auquel il donne le nom de Maruca. En 1575, par ordre du Roi Don Sébastien, Manuel

¹ Archives de l'Inde Portugaise.

de Mesquita Prestrello décrit toute cette terre qu'il avait cotoyée sur une flûte de faible tonnage, ainsi que le rapporte Manuel Pimentel à la page 429 de son "Arte de Navegar." Ce dernier donne aussi dans cet ouvrage une notice de notre découverte et du voyage que firent les Portugais de Mozambique jusqu'à la Baie de Lourenço Marques et à Quilimane, village Portugais placé à six lieues au nord des bouches du fleuve; cet ouvrage offre encore d'autres données certaines et détaillées sur ce pays.

Les autres cartes qui ont été publiées sont celles de Lilly qui étend le Gouvernement de Mozambique jusqu'à Inhaca. Wit, dans sa "Table d'Afrique," comprend sous les mêmes lignes pointées et les mêmes couleurs toute cette côte qui, ayant le Royaume de Sofalla pour siège du Gouvernement, se prolonge de Cuama jusqu'au Cap de Bonne-Espérance. Pierre Wander présente aussi ces contrées sous le nom de "Cafraria Lusitanis," dans son "Nouvel Atlas" dressé d'après les observations de l'Académie Royale de France. Parmi les auteurs anciens, Abraham Ortelius nomme toute cette côte royaume de Sofalla, et Pierre Duval comprend sous le nom de côte de Sofalla toute la contrée qui s'étend depuis le fleuve du Saint Esprit et la côte des Fumées jusqu'à Cuama.

"L'Atlas" de Sansonius dont l'édition Latine est fort estimée, donne à toute la côte comprise entre le Cap Talhado et Quilimane le nom de "Cafraria Lusitanis." Luyts, dans sa "Géographie," section 4, feuille 617, reconnaît clairement la souveraineté Portugaise sur toute cette côte, et il ajoute que, si un pays ne se trouve pas entièrement occupé faute d'habitants, il n'en est pas moins pour cela en la possession de celui qui l'a découvert, occupé, possédé et défendu, et qu'un préjudice public résulterait pour toutes les nations, si leurs alliés pouvaient occuper un pays qui ne leur appartiendrait pas, sous prétexte que toute la côte n'est pas garnie d'habitations. Outre nos auteurs, on peut citer Jarrie qui, dans le chapitre 8 du livre 3 de la deuxième partie de "l'Histoire des découvertes des Portugais," rapporte comment le Roi de Sofalla est devenu tributaire et comment les Portugais ont conservé la souveraineté et le commerce de toute cette contrée.

Que Sofalla ainsi que toutes ses dépendances fut dès les commencements une conquête des Portugais qui en chassèrent les barbares, voilà ce qui est assuré par João de Barros, auteur accrédité, décade 1, livre 10, chapitre 1, par Manuel de Faria dans son "Asia," partie première, ainsi que dans ses "Commentaires à Camoens," strophe 54 du premier chant et strophe 94 du deuxième chant. Cette côte fut défendue contre les Cafres qui, en 1505, l'attaquèrent deux fois, par Pedro de Annaia qui bâtit le fort. Par tout ce qui précède il est clairement établi que toute cette côte appartient au Royaume de Portugal.

(Signé) **DIOGO DE MENDONCA CORTE REAL**

(No. 104.)

Lettre Royale faisant part au Gouverneur de l'Inde du renoncement des Anglais à s'établir à Lourenço Marques, et l'avertissant de se précautionner contre les Hollandais, 12 Avril, 1723.¹

(Traduction.)

Francisco José de Sampaio, Vice-Roi et Capitaine-Général de l'Inde, mon ami. Moi, le Roi, je vous salue.

Le 16 Avril de l'année 1721, je vous fis écrire une lettre, dont vous aurez la copie conjointement avec la présente, vous communiquant la résolution que j'avais prise de faire partir une frégate de guerre avec les gens et les apprêts nécessaires pour l'établissement de la Baie de Lourenço Marques, située sur la côte de l'Afrique, attendu que le bruit courait que les Anglais voulaient s'emparer de ce port qui appartient à ma couronne. La frégate avait l'ordre, pour le cas où elle aurait trouvé les Anglais établis et fortifiés sur ce point, de les en déloger et d'en prendre possession, le tout avec les précautions et les ménagements indiqués dans ma lettre. Cependant, comme le bruit de cette prise de possession des Anglais vint à s'évanouir, je fis suspendre le départ de la frégate déjà prête pour cette expédition. On dit maintenant que les Hollandais se sont établis dans un port à dix ou quinze lieues au sud de Mozambique; il peut se faire que ce soit dans la baie même de Lourenço Marques, quoiqu'elle se trouve à une plus grande distance, j'ai donc fait consulter les hommes du métier, et comme ils ont assuré que sur toute cette côte il n'y avait aucun autre port suffisant, j'ai résolu de faire appareiller une autre frégate qui partira pour une expédition semblable à celle qui était indiquée contre les Anglais, car non-seulement l'honneur de ma couronne exige que j'empêche l'établissement des nations de l'Europe sur des terres faisant partie de mes domaines, mais encore parce que j'entends ainsi éviter le préjudice considérable que porterait au commerce de l'Inde et à celui de Mozambique cet établissement des Hollandais ou de toute autre nation sur cette côte; en vue de quoi j'ai cru devoir vous avertir et vous faire comprendre ma résolution, afin que vous agissiez dans ce sens avec cette activité dont je trouve la garantie dans le zèle dont vous avez toujours fait preuve pour mon service.

Faite à Lisbonne occidentale, ce 12 Avril, 1723.

(Signé) **LE ROI.**

A Francisco Joseph de Sampaio,
Vice-Roi et Capitaine-Général de l'Inde.

¹ Archives de l'Inde Portugaise; liv. des "Moussons," No. 89, f. 300.

(No. 105.)

Instructions données par le Vice-Roi João de Saldanha da Gama à Antonio Cardim Froes, Gouverneur de Mozambique, 21 Janvier, 1726.¹

(Traduction.)

26. Vous vous informerez des factoreries que l'on dit avoir été établies par les Hollandais sur cette côte et principalement dans la Baie de Lourenço Marques et des intelligences que cette nation ou quelque autre pourrait entretenir avec les Cafres ; vous rendrez un compte exact et détaillé de ce que vous saurez à ce sujet, après avoir préalablement fait vos efforts pour empêcher tout établissement, communication ou commerce sur cette côte, ce que je vous ai déjà spécialement recommandé. Lorsque les vaisseaux que je dois envoyer en Portugal à chaque mousson passeront par votre port, vous enverrez à Sa Majesté, par l'entremise du Ministère de la Marine, un compte-rendu détaillé de ce que vous aurez appris à ce sujet et de ce que vous aurez fait en conformité avec ce que Sa Majesté vous a recommandé en ma présence.

27. Vous ne permettez pas que les vaisseaux d'une nation étrangère quelconque pénètrent dans le port de Mozambique pour y faire le commerce ; si, par aventure, quelque navire arrivait dans ce port en tel état qu'il fallût le radoubler, vous l'y laisseriez pénétrer, mais non y faire le commerce, et si l'équipage de ce navire se trouvait en nombre suffisant pour inspirer la crainte de quelque entreprise de sa part, vous auriez soin de vous emparer de ses armes et de sa poudre. Pour les autres navires qui viendraient dans ce port, vous leur ferez donner l'eau et les provisions nécessaires ; il vous sera demandé compte de l'observation de ce chapitre.

(No. 106.)

Lettre de Antonio Cardim Froes, Gouverneur de Mozambique, au Vice-Roi de l'Inde, Août, 1727.²

(Traduction.)

Excellence,

Je rends compte au Tribunal de la Junte de l'état où se trouvent les affaires du Cap des Courants³ et comme votre Excellence m'avait ordonné de tenter ce voyage, ce qui aurait été fort agréable à Sa Majesté, notre Maître, j'ai envoyé par Inhambane une invitation aux régules de renouveler nos relations, et quoique l'un d'eux qui voulait garder le commerce pour lui seul n'ait pas laissé passer un Portugais que j'avais chargé de cette mission, celui-ci a cependant réussi à leur faire passer un avertissement qui a eu pour résultat de le mettre en communication avec eux. Après une longue conférence ils ont convenu d'envoyer deux de leurs fils qui se rendraient près de moi, en prenant passage sur le navire d'Inhambane ; après être restés à bord pendant la relâche, ils sont arrivés dans ce port en Mai de cette année, et ils m'ont rapporté que tous les régules de cette côte étaient désireux que l'on continuât de leur envoyer d'ici les navires chargés de marchandises, comme cela était l'habitude, mais qu'ils ne voulaient pas que cela se fit sans qu'ils nous eussent préalablement avertis qu'ils avaient chassé les Hollandais d'une petite factorerie que ces derniers possédaient et où ils se trouvaient au nombre de huit ou dix. Les régules avaient eu des différends avec eux, d'où il était résulté des combats où de part et d'autre des hommes avaient été tués, cependant, la nécessité où ils se trouvaient d'avoir des étoffes obligeait les régules à souffrir les Hollandais, malgré la mauvaise qualité de ces étoffes, qui ne les satisfaisaient point. Ils ont ajouté que pendant leur séjour à Inhambane, le bruit avait couru que les régules qui les envoyaient avaient exterminé les Hollandais, ce que le capitaine aurait pu faire vérifier, sachant le but de mon invitation à ces noirs ; mais comme ce capitaine a fait tout ce qu'il a voulu, ainsi que j'en rends compte au Tribunal de la Junte, il ne serait pas étonnant qu'il eût oublié ce que je lui ai recommandé à ce sujet.

Pendant cette mousson il est arrivé de Portugal un nègre du Cap des Courants auquel Sa Majesté a rendu, je ne sais pour quelle cause, la liberté, et comme il vient dans un moment opportun et qu'il connaît bien la langue, il pourra remplacer l'un des deux envoyés qui est mort de la petite vérole, et bien expliquer nos désirs à ces régules.

(No. 107.)

Lettre du Secrétaire d'Etat Diogo de Mendonça Corte Real au Vice-Roi João de Saldanha da Gama, 12 Avril, 1729.⁴

(Traduction.)

J'ai reçu cinq lettres de votre Seigneurie, du 10 Janvier de l'année dernière, qui toutes ont été mises sous les yeux de Sa Majesté qui est assurée du zèle que vous employez à son service.

Quant à l'établissement que les Hollandais ont formé dans la Baie de Lourenço Marques, Sa Majesté, sachant les nouvelles qu'à cet égard vous a transmises Antonio Cardim Froes,⁵ entend qu'il est convenable que ce dernier ou celui qui lui succédera dans le Gouvernement de Mozambique, continue à faire toutes les démarches possibles pour entretenir des relations avec les régules de cette contrée, afin d'y maintenir l'exclusif de notre commerce et d'en chasser les Hollandais, ce que Sa

¹ Archives de l'Inde Portugaise ; liv. des "Règlements," f. 148.

² Archives de l'Inde Portugaise ; liv. des "Moussons," No. 94, f. 735.

³ Nous donnons à cette époque à la Baie de Lourenço Marques le nom de Cap des Courants.

⁴ Archives de l'Inde Portugaise ; liv. des "Moussons," No. 96, f. 188.

⁵ C'est le document précédent.

Majesté m'ordonne de vous recommander tout spécialement, vous enjoignant encore de faciliter autant que possible les relations avec les nègres de Madagascar.

Dieu garde, &c.

(Signé)

DIOGO DE MENDONCA CORTE REAL

Lisbonne Occidentale, ce 12 Avril, 1729.

Au Vice-Roi et Capitaine-Général de l'Inde, première voie.

(No. 108.)

Lettre du Vice-Roi João de Saldanha da Gama à Sa Majesté, 2 Janvier, 1730.¹

(Traduction.)

Sire,

Goa, 2 Janvier, 1730.

Suivant les volontés de votre Majesté, j'ai ordonné à Antonio Cardim Froes, Gouverneur de Mozambique, de mettre obstacle au trafic que les Hollandais se disposaient à établir dans le port de Inhambane, où ils avaient pénétré, s'avancant à plus de deux cents lieues dans l'intérieur, découvrant des mines d'or et mettant à leur dévotion les Cafres de cette côte qu'ils indisposaient contre nous. A l'arrivée du vaisseau que j'avais envoyé dans ce but, les navires Hollandais se sont retirés; et comme, pour faire le commerce dans ce port, ils avaient pris le prétexte de n'y avoir point trouvé de fort ni le pavillon de votre Majesté, j'ai fait bâtir un fort à l'endroit marqué sur la carte ci-jointe.²

Les Cafres se sont montré nos ennemis, c'est pourquoi il leur a été infligé le châtimement dont votre Majesté trouvera la narration dans l'autre copie ci-incluse; il semblerait juste que votre Majesté témoignât sa satisfaction à Domingos Lopes Rebello, Capitaine de Sofalla, dont le courage et la résolution dans cette affaire ont sans aucun doute aidé au triomphe des armes de votre Majesté dans cette contrée.

A Senna, dans la juridiction de Quilimane, les régules ont été également châtiés, comme votre Majesté le verra de la copie également incluse; le Changamira, ancien et puissant ennemi des Portugais, se trouve aujourd'hui presque complètement abattu.

L'établissement complet de cette conquête, sire, serait fort utile, et il se fera sans de grandes difficultés si votre Majesté daigne employer les moyens que je lui ai indiqués dans d'autres occasions opportunes. L'expérience que j'ai acquise des affaires de l'Inde m'enhardit à affirmer à votre Majesté que la côte du Cap des Courants jusqu'à celui de Guardafui avec les îles de Timor seraient suffisantes à rendre opulent le plus grand empire du monde, et que l'application des moyens nécessaires à la soumission de ces vastes contrées n'est pas impossible ni impraticable et qu'elle n'exigerait pas de trop fortes dépenses.

Dieu garde, &c.

(Rubrique du Vice-Roi.)

(No. 109.)

Instructions données par le Vice-Roi João de Saldanha da Gama à Dom Antonio Casco e Mello, Gouverneur de Mozambique et de Rios de Senna, 19 Janvier, 1731.³

(Traduction.)

"19. Vous exigerez de votre prédécesseur toutes les informations qui vous paraîtront convenables au sujet de la factorerie que les Hollandais ont voulu fonder dans la Baie de Lourenço Marques; vous mettrez obstacle à cet établissement par tous les moyens en votre pouvoir, et en agirez de même envers n'importe quelle autre nation, à cause du dommage qui résulterait pour l'Etat de tout trafic ou commerce qui serait introduit par les étrangers sur cette côte.

"20. Semblable au chapitre 27 du règlement donné à Antonio Cardim Froes, mais ayant en plus ces derniers mots:

"Et pour empêcher le long séjour des navires étrangers dans ce port, vous tiendrez en bon état la canalisation que j'ai fait établir pour les aiguades."

(No. 110.)

Extrait du Journal de bord du navire Hollandais "Snuffelaar," à la date du 14 Octobre, 1731.⁴

(Traduction.)

D'après leurs instructions, les navires "Snuffelaar" et "Zeepost" visitèrent Inhambane du 12 au 22 Octobre, 1731; ils y trouvèrent un petit fort et un navire Portugais à l'ancre. Le fort était sous le commandement du Capitaine Portugais João da Fonseca Moniz, qui défendit aux Hollandais d'y faire le commerce, à quoi ils se soumirent. João da Fonseca déclara au capitaine du navire ("Snuffelaar") "que le domaine reconnu du droit de Portugal sur cette côte s'étendait depuis la Baie du Cap des Courants (ils nomment ainsi la Baie de Lagoa) jusqu'au Cap Guardafui, près de la Mer Rouge, et que tous les gens de ce territoire étaient des vassaux de son roi," etc.

¹ Archives de l'Inde Portugaise; liv. des "Moussons," No. 98, f. 58.

² Il n'en est pas resté de copie dans l'Inde.

³ Archives de l'Inde Portugaise; registres des "Lettres pour Mozambique," f. 47, v^o.

⁴ Notes communiquées le 28 Juin, 1873, par M. Van den Bergh, Archiviste de l'Etat en Hollande.

(No. 111.)

Lettre du Vice-Roi João de Saldanha da Gama à Dom Antonio Casco e Mello, Gouverneur de Mozambique et de Rios, 9 Janvier, 1732.¹

(Traduction.)

J'approuve également votre envoi d'un navire à Inhambane pour embarrasser l'introduction des Hollandais sur cette côte et dans ce port, attendu que telle est la volonté du Roi ; et si vous parvenez, avec l'aide des Cafres de la Baie de Lourenço Marques, à les expulser de ce pays, vous aurez fait une chose fort utile et extrêmement agréable à Sa Majesté.

(No. 112.)

Instructions données par le Vice-Roi Comte de Sandomil à Joseph Barbosa Leal, Gouverneur de Mozambique et de Rios, 27 Janvier, 1733.²

(Traduction.)

Outre les chapitres déjà rapportés dans le règlement donné à D. Antonio Casco e Mello, on trouve encore celui-ci :

Joint à ce règlement vous trouverez un acte envoyé à ce ministère par Dionisio Manuel Viegas,³ par lequel les Hollandais s'obligent à ne pas retourner dans ce port de Inhambane, pour y tenter le commerce ; et s'ils agissent autrement, vous les en empêcherez, faisant votre possible pour envoyer toujours dans ce port un navire armé en guerre, et apportant un soin tout particulier à l'entretien des bonnes relations avec les indigènes, que vous ne laisserez manquer ni des étoffes ni de ce dont ils peuvent avoir besoin, afin qu'ils soient toujours dans notre amitié et que la privation des objets mentionnés ne leur soit pas un prétexte pour céder aux prétentions des Hollandais.

(No. 113.)

Lettre du Directeur de la Compagnie Française de Pondichery au Secrétaire d'Etat de Portugal Antonio Guedes Pereira, 13 Mai, 1738.⁴

(Traduction.)

Paris, le 13 Mai, 1738.

Monsieur, par les lettres que j'ai reçues de Olinda, j'ai appris que Goa avait été assiégée par les naturels du pays, et que le Vice-Roi, se trouvant dans le dernier embarras, avait demandé du secours au Gouverneur de Pondichery qui lui avait envoyé par le vaisseau "Le Bourbon," de soixante-six canons, des munitions de guerre et des provisions. Je ne vous en dirai pas davantage là-dessus et ne ferai aucune réflexion sur la différence des procédés des Français envers les Portugais avec ceux des Portugais envers les Français. Enfin je ne parlerai point du passé, mais je veux vous soumettre, non comme à un ministre, mais comme à mon ami, quelques réflexions qui ont trait à l'avenir.

Le Portugal a depuis longtemps permis aux autres nations de prendre pied sur ses établissements des côtes de Mozambique et de Sofalla, et les Hollandais en ont profité ; si un malheur arrivait à la ville de Goa, les Portugais perdraient tous leurs établissements, et ce malheur aura lieu si le Portugal n'y apporte un prochain remède. Mais le pays est-il ou non dans la pensée d'en agir ainsi ? Voilà sur quoi se base ma proposition. Si le Portugal a l'intention d'envoyer les secours nécessaires, mettez que je ne vous ai rien dit ; mais s'il ne veut point secourir cet établissement, la Compagnie de France pourrait, si le Roi de Portugal voulait lui céder un port sur la côte de Mozambique, se charger de ravitailler Goa et se joindre au Vice-Roi pour repousser les entreprises tant des naturels du pays que des autres nations. Si vous trouvez ma proposition raisonnable et praticable, vous pourrez en faire usage dans l'occasion.

Je vous prie, &c.
(Signé) ORRY DE FLEURY.

(No. 114.)

Instruction que Sa Majesté fait remettre au Marquis de Lourical, qui à la prochaine mousson part comme Vice-Roi et Capitaine-Général de l'Inde, Lisbonne, le 2 Mai, 1740.⁵

(Traduction.)

On sait avec plus que certitude que les Cafres de cette côte ont chassé du Cap des Courants les Hollandais qui s'étaient établis dans le port et commençaient déjà à pénétrer dans l'intérieur et à y introduire leur commerce. Et attendu que vous n'ignorez pas quel préjudice il résulte de ce fait pour le commerce de Mozambique et de Rios de Senna, je vous recommande tout particulièrement de ne pas négliger, autant que la situation des affaires de votre Gouvernement vous le permettra, de saisir l'occasion de fermer ce port aux nations de l'Europe, en fortifiant le susdit Cap des Courants avant que les Hollandais s'y établissent de nouveau ou que la Compagnie Orientale Française ne tente de le

¹ Archives de l'Inde Portugaise ; liv. des "Règlements," f. 76, v°.² Archives de l'Inde Portugaise ; liv. des "Règlements," f. 114, v°.³ Il était à Mozambique comme Gouverneur.⁴ Archives de l'Inde Portugaise ; liv. des "Moussons," No. 109, f. 214.⁵ Archives de l'Inde Portugaise ; liv. des "Moussons," No. 111, f. 955.

faire, cette Compagnie, vous pouvez en être assuré, désirant ardemment arriver à fonder un établissement sur cette côte.

(No. 115.)

Instructions données par Sa Majesté au Marquis de Castello Novo (depuis Marquis d'Alorna), lors de son départ pour l'Inde comme Vice-Roi, 25 Mars, 1744.¹

(Traduction.)

15. La dite Compagnie Hollandaise a fait occuper, il y a quelques années, le Cap des Courants sur la côte de Mozambique, et en effet ses administrateurs sont arrivés à s'y établir; mais il en ont été chassés par les Cafres eux-mêmes, et j'ai ordonné au Marquis de Lourical de tâcher d'empêcher les Hollandais et les autres nations de l'Europe de s'y établir pour éviter qu'on pénètre dans le pays, car il en résulterait de graves dommages pour le commerce de Mozambique et de Rios de Senna. Et comme j'ignore ce que le dit marquis aura fait à ce sujet, je vous recommande d'y apporter tous vos soins, car vous n'ignorez pas l'importance et les conséquences de cette affaire.

(No. 116.)

Instructions au Gouverneur de Mozambique, au sujet du Commerce de cette Province, 9 Mai, 1761.²

(Traduction.)

§ 19. Aussitôt après les glorieux établissements fondés par le grand Alphonse de Albuquerque, la ville de Mozambique fut érigée par lui en centre ou entrepôt du commerce de l'Afrique Orientale et des îles voisines. Sa Majesté ordonne qu'il en soit fait de même aujourd'hui, dans la mesure du possible et ayant égard à la différence des époques, de manière que tous les navires partis des domaines de Sa Majesté en Europe, en Amérique ou en Asie et qui feront voile vers la Côte Orientale d'Afrique viennent en droite ligne au port de Mozambique, pour que leurs marchandises y soient déchargées et de là réexportés dans les autres ports *depuis la Baie de Lourenço Marques jusqu'au Cap Delgado*, après acquittement des droits d'entrée, de sortie, &c.

(No. 117.)

Instructions au Lieutenant-Colonel Antonio José de Mello, Envoyé à la Baie de Lourenço Marques, 2 Avril, 1763.³

(Traduction.)

1. Par lettre patente j'ai nommé le Lieutenant-Colonel Antonio José de Mello, commandant de la frégate royale "Saint Joseph," que j'ai résolu d'envoyer au Cap des Courants ou Baie de Lourenço Marques, en exécution des ordres de Sa Majesté des 7 et 28 Mai, 1761; il exécutera ce qui lui est ordonné dans la présente instruction ainsi que les autres dispositions qui lui seraient communiquées verbalement ou par écrit.

2. Il fera route directement vers le port de la Baie de Lourenço Marques, sur la frégate qu'il commande, et qui est armée en guerre afin de pouvoir se défendre si quelque ennemi l'attaquait, motif pour lequel elle porte un équipage nombreux de marins et un fort détachement de soldats; la frégate cherchera à éviter tout conflit et ne se battra que dans le cas où elle y serait contrainte pour sa propre défense; elle agira de même si elle rencontre dans les eaux de la Baie de Lourenço Marques les navires étrangers, qui chaque jour fréquentent davantage ces mers vu le grand bénéfice qu'ils y ont trouvé. Ces navires ont par leur fréquent passage affaibli les anciens rapports qui existaient entre les Portugais et les Cafres, et qui plus est, ils se sont servis du drapeau Portugais et des passeports de la Couronne Royale Portugaise pour introduire leur commerce dans le port susdit, usurpant ainsi les avantages qui revenaient de droit aux vassaux de Sa Majesté. C'est pourquoi, désirant mettre un terme à cet état de choses, Sa Majesté m'a donné des ordres en conséquence, afin que ce préjudice soit évité et que les étrangers soient éloignés et ne puissent continuer d'user de fraude à notre égard. Prenant pour ligne de conduite les ordres du Roi, j'invite le dit commandant à agir de manière à ce qu'aux Portugais revienne le commerce de cette baie et que ce soient eux qui fréquentent ces mers, non sur des navires à eux mais bien sur les vaisseaux de l'Etat, ce qui sera porté à la connaissance des Cafres. Comme signe que les commerçants qui se rendront dans la baie monteront des navires expédiés par le Gouvernement de la capitale de Mozambique, et de ses domaines, ils porteront des passeports dont l'un sera laissé entre les mains du commandant et l'autre remis aux régules auxquels il sera adressé, avec le socle des armés de la Couronne Royale de Portugal, et semblable à ceux dont le commandant emporte maintenant le modèle qu'il fera connaître aux Cafres de la Baie de Lourenço Marques avec lesquels il s'entendra à ce sujet.

(Signé)

JOAO PEREIRA DA SILVA BARBA.

Mozambique, ce 2 Avril, 1763.

¹ Livre des "Moussons," No. 117, f. 173, et publiées dans le "Chronista de Tisuary," vol. ii, p. 156.

² Archives du Ministère de la Marine.

³ Archives du Gouvernement de la Province de Mozambique.

Déposition des Témoins sur l'Accomplissement des Instructions, 16 Août, 1763.¹

(Traduction.)

Le 16 du mois d'Août, 1763, en cette ville de Mozambique, au Palais de son Excellence le Gouverneur et Capitaine-Général João Pereira da Silva Barba, par lui ont été entendus les témoins des instructions données au Lieutenant-Colonel Antonio José de Mello, appelés à déposer à l'égard de la conduite de cet officier, en conformité avec l'ordonnance; et les témoins ont déposé comme suit, ce dont procès-verbal a été dressé par moi, Antonio da Silva Pinto, Secrétaire.

(1.)

Antonio José de Carvalho, Lieutenant d'infanterie du régiment de cette place, âgé de 32 ans, témoin qui a juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, sur le contenu de l'instruction, il a déclaré que lui témoin a été nommé adjudant du Lieutenant-Colonel Antonio José de Mello, pour le voyage du Cap des Courants ou Baie de Lourenço Marques, où le navire prit fond le 2 Juin; qu'ils y avaient trouvé deux navires de commerce Anglais, dont le maître était le Capitaine Chandeller, de Bombay, sans garnison militaire et avec un équipage d'Indiens.

A l'arrivée de la frégate royale "Saint Joseph," ces deux navires n'ayant pas hissé pavillon, le Commandant Antonio José de Mello fit tirer un coup de canon à poudre, et comme ils n'obéissaient pas il fit tirer un autre coup à boulets ramés, puis comme il était resté sans effet, il leur fit envoyer un boulet; alors les navires hissèrent leur pavillon et le négociant Anglais envoya à bord de la frégate "Saint Joseph" un pilote Indien pour s'enquérir du motif de cette agression non justifiée de la part d'un navire appartenant à une nation amie, à quoi le dit commandant répondit que les navires auraient dû saluer la frégate et envoyer à son bord leur capitaine dès que le premier coup de canon avait été tiré. Ensuite, le marchand Anglais se rendit à notre bord, où il eut un entretien avec notre commandant.

Le témoin n'ajoute rien de plus. Et il a signé, ainsi que le Gouverneur et Capitaine-Général, cette déposition qui a été écrite par moi, Antonio da Silva Pinto, Secrétaire.

(Signé) ANTONIO JOSE DE CARVALHO.

(2.)

Francisco Antonio Affonso, chirurgien, âgé de 33 ans, témoin qui a promis et juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, au sujet de l'exécution des ordres reçus par le Lieutenant-Colonel Antonio José de Mello, commandant la frégate royale "Saint Joseph," il a dit qu'il avait fait le voyage du Cap des Courants ou baie de Lourenço Marques à bord de ce navire, en qualité de chirurgien; qu'il y était arrivé le 2 Juin, et qu'ils y avaient trouvé deux navires appartenant à un négociant Anglais, et que les capitaines de ces navires avaient présenté au commandant de la frégate une pancarte de Bombay et un *passaport Portugais* délivré par le Gouvernement de Damão, pour ces parages.

Et il ajoute rien de plus. Et il a signé son serment, ainsi que le dit Gouverneur et Capitaine-Général, ce qui a été écrit par moi Antonio da Silva Pinto, Secrétaire.

(Signé) FRANCISCO ANTONIO AFFONSO.

(3.)

José Pedro Pereira da Silva, pilote de la frégate royale "Saint Joseph," âgé de 30 ans, témoin qui a promis et juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, au sujet de l'exécution ou de la non-exécution donnée par le Lieutenant-Colonel Antonio José de Mello, commandant la frégate royale "Saint Joseph," aux ordres par lui reçus, il a dit que, en sa qualité de pilote à bord, il avait su et vu qu'à l'arrivée de la dite frégate dans la baie Lourenço Marques, deux navires appartenant à un négociant Anglais y avaient été trouvés, lequel négociant avait été obligé de se rendre à bord de la frégate, ce à quoi on l'avait contraint en tirant à boulets sur ses navires.

Et il n'ajoute rien de plus, et signa son serment, ainsi que le dit Gouverneur et Capitaine-Général, ce qui a été écrit par moi, Antonio da Silva Pinto, Secrétaire.

(Signé) JOSE PEDRO PEREIRA DA SILVA.

(4.)

Agostinho José, Sergent d'infanterie du régiment de cette place, âgé de 30 ans, témoin qui a promis et juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, au sujet de l'exécution ou de la non-exécution des ordres reçus par le Lieutenant-Colonel Antonio José de Mello, commandant la frégate "Saint Joseph," il a dit que, faisant partie de la garnison de la frégate, il avait pu savoir que, à leur arrivée dans la baie de Lourenço Marques, ils y avaient trouvé deux navires appartenant à un négociant Anglais, que le commandant avait, à coups de canon, forcé le dit négociant à venir à bord, mais comme ce dernier n'avait envoyé qu'un pilote, il l'avait renvoyé, en le chargeant de dire au négociant de venir en personne lui parler, ce que celui-ci avait fait.

¹ Archives du Gouvernement de la province de Mozambique.

Il n'a rien ajouté, et a signé son serment avec le dit Capitaine et Gouverneur-Général, ce qui a été écrit par moi, Antonio da Silva Pinto, Secrétaire.

(Signé) AGOSTINHO JOSE.

(5.)

Alexandre Rodrigues, maître d'équipage de la frégate royale "Saint Joseph," âgé de 38 ans, témoin qui a promis et juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, sur l'exécution donnée ou non aux ordres reçus du Roi, par le Lieutenant-Colonel Antonio José de Mello, commandant de la dite frégate royale, il a répondu que, en sa qualité de maître d'équipage à bord de la frégate, il avait été à même de savoir que, à leur arrivée dans la baie de Lourenço Marques, ils y avaient trouvé deux petits navires appartenant à un négociant Anglais; que le commandant leur ayant fait faire signal par un coup de canon chargé à boulet, le dit Anglais avait envoyé à bord un pilote pour déclarer que ces deux navires appartenaient à un négociant qui se trouvait dans cette baie pour y faire le commerce avec les Cafres, et que le dit commandant lui ordonna de faire venir ce négociant lui-même à bord, ce qui fut exécuté.

Il n'ajouta rien de plus, et signa son serment avec le Gouverneur et Capitaine-Général, ce qui a été écrit par moi, Antonio da Silva Pinto.

(Signé) ALEXANDRE RODRIGUES.

(6.)

Ignacio José, contre-maître de la frégate royale "Saint Joseph," âgé de 30 ans, témoin qui a promis et juré sur les Saints-Evangiles de dire la vérité.

Interrogé, lui témoin, sur le contenu des ordres du service royal, donnés à Antonio José de Mello, commandant de la frégate royale "Saint Joseph," il a répondu qu'en sa qualité de contre-maître de la dite frégate, il savait qu'à leur arrivée au port de la Baie de Lourenço Marques, ils y avaient trouvé deux navires Anglais, ainsi que leur propriétaire, également Anglais, lequel après avoir envoyé son pilote, était venu lui-même à bord de la frégate, sur l'injonction qui lui en avait été faite par le commandant. De bonnes relations s'étaient établies entre le dit négociant Anglais et le commandant; ils avaient quelques fois dîné ensemble et s'étaient fait différents cadeaux.

Il n'ajouta rien de plus, et signa son serment avec le Gouverneur et Capitaine-Général, ce qui a été écrit par moi, Antonio da Silva Pinto, Secrétaire.

(Signé) IGNACIO JOSE.

(No. 119.)

Dépêche Officielle de Antonio José de Mello au Gouverneur de Mozambique, Juillet, 1763.¹

(Traduction.)

Excellence,

Sur la carte de la Baie de Lourenço Marques que je mets sous vos yeux, vous pourrez voir la configuration de cette baie et l'indication des bas-fonds que l'on y a découverts. Beaucoup d'autres bas-fonds y existent encore dont on n'a pu déterminer la position, eu égard à la grande étendue de la baie et au manque de ressources nécessaires à cette étude.

Je porte également à votre connaissance le relevé du fleuve auquel les Portugais ont donné le nom de *Saint-Esprit*, le seul navigable qui se jette dans la dite baie et que remontent les navires qui vont y faire le commerce.

Dans les eaux de ce fleuve se trouvaient deux navires Anglais qui trafiquaient avec les Cafres de ce continent.

Vers la partie nord de ce fleuve, on voit les restes d'une fortification de forme rectangulaire; là se trouvait la factorerie Hollandaise.

Ce fleuve, en remontant dans les terres, sépare les Royaumes de Capella, Massingue, Mapouto, et autres régules, de ceux de Matolla, Maghaia, Sherinda, &c. Ces derniers territoires se trouvent sur la partie nord, tandis que les premiers occupent la partie sud. A cinq ou six lieues, ce fleuve reçoit une rivière d'eau douce qui remonte également dans l'intérieur qui est fort peuplée d'hippopotames.

Au nord de ce fleuve et près de la côte, dans une île à laquelle on a donné le nom de *Chefina*, on voit les restes d'une autre fortification de forme quadrangulaire où se trouvait une des factoreries Portugaises; je n'ai pu m'y rendre faute de bateau, toutefois j'ai pu prendre des renseignements suffisants sur l'île et sur le canal qui la sépare du territoire du Roi Maghaia, grâce aux sondages qui y ont été faits par le maître pilote Victorino da Costa, lorsqu'il alla acheter des vivres sur cette côte. Ce pilote n'a pas trouvé plus de deux brasses et demie de profondeur dans ce canal que ne peuvent fréquenter que des navires de faible tonnage.

A l'entrée du fleuve du Saint-Esprit, il y a un banc recouvert de deux brasses et demie d'eau; le fond en est de vase; si on le passe pendant les hautes marées on y trouvera quatre brasses d'eau; une fois le banc dépassé, on a fond de onze brasses, et un endroit abrité des vents excepté de celui de l'est.

Pour ce qui regarde le commerce de cette baie, il peut être d'un grand avantage pour les sujets de Sa Majesté, si l'on empêche les navires étrangers qui la fréquentent à notre grand préjudice d'y retourner, attendu que, non contents d'en tirer de considérables quantités d'ivoire et d'autres

¹ Archives du Ministère de la Marine.

marchandises précieuses, ils ont introduit chez les Cafres un grand nombre d'armes à feu, de poudre et des balles.

Le capitaine des deux navires Anglais qui s'y trouvaient, Edouard Chandler, a dit que ces navires appartenaient à la Compagnie de Bombay.

Cet Anglais possède cinq petites embarcations qui remontent toutes les rivières, avec un équipage d'Indiens, et qui vont partout acheter l'ivoire.

Il a également deux chevaux pour son usage, et qui sont gardés à terre.

Les marchandises que ce négociant emploie le plus pour son trafic sont le *mechocho* et la veroterie, le premier de grosse qualité et l'autre d'une qualité plus fine, et aussi quelques étoffes noires, blanches, ou peintes, mais en petite quantité, attendu que les Cafres ne s'en servent point, excepté les femmes qui s'en couvrent les parties naturelles, le reste du corps étant complètement nu.

En échange on tire de ces territoires où abondent les bestiaux, le riz, et les haricots, de grandes quantités d'ivoire, de cornes de rhinocéros et d'ambre.

(Signé)

ANTONIO JOSE DE MELLO.

(No. 120.)

Règlement donné au Gouverneur de la Baie de Lourenço Marques, 25 Novembre, 1781.¹

(Traduction.)

Sa Majesté la Reine ayant témoigné positivement, par les ordres adressées au Gouverneur de l'Inde et par ceux de ce dernier au Gouvernement de ce pays, quelle était sa volonté royale de rétablir le commerce de cette capitale avec le Cap des Courants et la Baie de Lourenço Marques, j'ai résolu de vous élever, au nom de Sa Majesté la Reine, au poste de Capitaine-Général et Gouverneur de cette baie et des territoires qui en dépendent, afin de rétablir une factorerie et un fort, et d'y élever des travaux de défense à l'instar de ceux qu'y avaient fondés les Autrichiens, me conformant aux instructions que le Gouverneur de l'Inde a envoyées à ce Gouvernement dans la présente année, et aussi pour régler le commerce de manière qu'il puisse devenir utile à la Couronne de Sa Majesté; en vue de quoi vous aurez à exécuter ce que je vous ordonne dans les chapitres qui suivent:—

1. En arrivant à l'Île de l'Unhaca, vous jetterez l'ancre dans ce port, et vous enverrez à terre le Capitaine Belchior ou quelque autre officier capable, avec l'escorte dont il aura besoin. Vous ferez appeler le régule de cette île, et vous lui ferez entendre de ma part: que sachant, moi Gouverneur, comme lui et les siens le savent aussi, que ce port appartient aux Portugais et que comme vassaux qu'ils sont de la Reine de Portugal, il est de mon devoir de les protéger et les défendre contre les autres nations qui, convoitant les denrées de ce pays, chercheront sans doute à s'emparer de ces contrées contre la volonté de leur maîtresse qui est la Reine de Portugal, pour ensuite les tyranniser et les piller comme le font tous ceux qui aspirent à s'emparer de ce qui ne leur appartient pas; j'ai résolu d'y faire élever un autre fort, et d'y laisser des Portugais autorisés à faire le commerce qu'y avaient fait jusque là les autres navires, et dans ce but je lui envoyais un présent en signe de l'amitié que je voulais maintenir avec ces peuples, et que je m'engageais à leur envoyer tous les ans des étoffes pour s'habiller et faire leurs échanges.

Vous laisserez sur ce point trente hommes avec le Capitaine Belchior et le Sous-Lieutenant Francisco Mourão, avec tout ce qui sera nécessaire pour la construction du dit fort et des logements des soldats, établissement auquel vous appliquerez tous vos efforts.

2. Aussitôt que vous serez arrivé dans le canal où l'on a l'habitude de jeter l'ancre et à l'endroit où les Autrichiens avaient établi une batterie, vous ferez appeler les rois Capella et Matolla ainsi que tous les autres régules de la côte et vous leur tiendrez le discours qui se trouve déjà dans le premier chapitre; vous ferez ce qui sera en votre pouvoir pour leur être agréable et vous ne consentirez pas, sous les peines les plus sévères, qu'aucun des hommes placés sous vos ordres leur fasse la moindre violence à moins d'insulte ou de tentative de pillage de leur part car alors ce serait un cas de légitime défense. Après que vous aurez donné de ma part à ces régules les présents indiqués dans la liste ci-jointe, vous établirez avec eux que l'ivoire et les autres denrées de ce pays devront être conduites à bord ou sur la plage, tant que l'on n'aura pas établi un village près de la batterie et du drapeau que vous ferez arborer de suite et de manière que tous les étrangers puissent ainsi se convaincre que ce territoire nous appartient à juste titre.

3. Vous élevez un rempart pour y placer le nombre de pièces d'artillerie que vous jugerez convenable, au même endroit où s'élevait l'ancien, car il me paraît que c'est le lieu le plus approprié, et vous le protégerez par une estacade; pourtant vous ferez tous ces travaux dans un endroit où il y ait de l'eau ainsi que les autres choses nécessaires sur la terre ferme. Vous ne ferez rien tirer du navire sans que tout soit convenu et préparé afin que tout se fasse en bon ordre et avec tranquillité.

4. Dans le cas où des navires étrangers iraient dans ce port pour y faire des provisions, vous leur ferez accueil, tout en leur défendant positivement de faire le commerce sur cette côte. Si quelque navire de plus grande force vous faisait affront et désobéissait aux ordres que vous lui donneriez au sujet de notre domaine, vous lui adresseriez une protestation par écrit, signée de votre greffier et de quelques autres personnes, en l'avertissant que vous adresserez votre rapport à votre Gouverneur, pour qu'il soit envoyé à la cour de Portugal, et tout cela sera fait sans que vous abandonniez un seul instant le ton de commandement qui vous convient, fort que vous serez de mon approbation et des ordres reçus.

5. Si Guillaume Bolts arrive dans votre port, vous lui direz de ma part et au nom de la Reine notre Souveraine, qu'il ait à partir au plus tôt, et s'il ne le fait pas, vous protesterez contre l'acte attentatoire commis par lui au préjudice de nos frontières, et vous dresserez du tout un procès-verbal signé par des témoins. Vous n'entrerez dans aucune espèce d'explications superflues avec le dit Bolts, et vous tâcherez qu'il comprenne que vous avez du déplaisir à le voir dans ces parages. Vous vous

¹ Archives du Ministère de la Marine.

opposerez dans la limite de vos forces à n'importe quelle tentative qu'il voudrait faire contre notre propriété, tout en conduisant cette affaire avec la prudence et la sûreté que vous pourrez employer; vous en agirez de même envers toute autre nation étrangère.

6. Lorsque votre amitié avec les Cafres sera bien établie, vous réglerez les conditions des échanges de manière à ce que l'*arropa* d'ivoire gros ne dépasse pas quarante *pannos*, et dans la même proportion l'ivoire moyen, la petite ivoire, la cire, les cornes de rhinocéros, les dents d'hippopotame, tout cela afin que les Cafres ne soient point dupés et qu'ils reconnaissent que nous voulons une parfaite équité dans notre commerce. Si vous apprenez que les Cafres ont d'autres habitudes, vous exécuterez ce qui vous sera suggéré par la société que s'est formée pour exploiter le commerce de ces contrées, tout en prenant en considération les intérêts des marchands de cette place et les droits de Sa Majesté.

7. Dans le cas où quelque navire viendrait des ports du nord pour faire le commerce sur cette plage, vous y mettez empêchement et vous dirigerez ce navire sur cette capitale afin qu'il y acquitte les droits voulus par Sa Majesté; le Gouverneur de l'Inde ayant déjà fait savoir que l'on ne pouvait envoyer de navires trafiquer dans ce point, dont le commerce appartient à une société de la capitale. Dans le cas où la société aurait besoin de quelques marchandises, vous pourrez les acheter, tout en faisant payer les droits, que vous enverrez à notre douane.

8. Vous ferez tenir exactement les comptes ayant rapport à la solde de tous les officiers, soldats et marins, afin que la société contribue pour la part qui lui revient dans l'équipement de toute la garnison et des équipages; ce dont les finances royales lui tiendront compte d'après les prix de cette capitale.

9. Toutes les marchandises et les munitions de bouche et de guerre seront placées dans le magasin dont il y aura trois clés; l'une qui se trouvera sous la garde du Gouverneur, l'autre qui sera confiée au greffier et la dernière qui sera mise entre les mains du capitaine du navire. Rien ne pourra être tiré du magasin sans l'aide des trois clés, dont les gardiens seront responsables.

10. Il ne sera dépensé aucune poudre en salves d'artillerie; on tirera toutefois une salve avec les pièces de quatre, si cela est nécessaire et ayant égard plutôt à l'utilité publique qu'à cette cérémonie, à l'occasion de l'anniversaire de la naissance de la Reine notre Souveraine. Si quelque navire entre dans le port et salue le pavillon Royal, on lui répondra par trois coups de canon, sous la réserve faite plus haut.

11. Vous ordonnerez au commandant de la troupe de distribuer les soldats par chambrées de la manière la plus convenable et la plus commode pour eux. Vous ne permettrez pas que les soldats et les sous-officiers s'éloignent de la côte; quand ils auront à le faire pour acheter des vivres, ils seront armés et placés sous les ordres d'un sous-officier d'une prudence reconnue, et il leur sera recommandé de ne provoquer aucun conflit.

12. Vous profiterez de toutes les occasions qui s'offriront pour envoyer le rôle des soldats et des marins, avec les altérations qui pourraient se produire, afin que je puisse savoir le nombre d'hommes qu'il me faudra vous envoyer. Vous m'enverrez également un plan aussi exact que possible de cette baie; vous ferez lever ce plan par le Capitaine Belchior.

13. Toutes les fois qu'il se produira quelque fait non prévu par la loi ou par le règlement, vous convoquerez, pour en décider, tous les officiers de terre et de mer; leur décision sera établie à la pluralité des voix, ce dont le greffier dressera un procès-verbal signé par tous les officiers.

14. Connaissant votre profonde expérience des coutumes des Cafres, ainsi que les capacités militaires et la prudence dont vous êtes doué, je compte que vous saurez suppléer, à l'aide de ces qualités, aux omissions qui pourraient exister dans ces instructions, et que vous prendrez de vous-même les mesures qui paraîtront convenables, en cas d'événement, en attendant que vous puissiez m'en instruire.

(Signé)

VICENTE CAETANO DA MAIA E VASCONCELLOS.

Mozambique, ce 25 Novembre, 1781.

(No. 121.)

Réponse que la Compagnie du Commerce de Lourenço Marques fit par ordre de Pedro de Saldanha e Albuquerque, Gouverneur de Mozambique, contre l'Admission de la corvette "Sainte-Anne" dans cette Baie, 7 Mars, 1783.¹

(Traduction.)

Excellence,

Mozambique, ce 7 Mars, 1783.

La Reine Très Fidèle a bien voulu en 1781 ordonner au Gouverneur de Goa de faire expédier une frégate à la Baie de Lourenço Marques pour en chasser les Autrichiens que s'y étaient établis avec des Anglais de Bombay.

Guillaume Bolts a été le premier auteur de cette intrusion dans le but d'acquiescer à l'Autriche ce port qui appartient de droit à cette Colonie de Sa Majesté Très Fidèle, confiée au Gouvernement de votre Excellence.

Après l'expulsion des dits Autrichiens et Anglais, M. le Gouverneur intérimaire de cette Colonie fit publier, le 8 Novembre, 1781, un édit dans lequel il déclarait que le rétablissement du commerce de la Baie de Lourenço Marques serait très agréable à Sa Majesté la Reine.

Et comme le dit Gouverneur ayant réuni les négociants de la Colonie, et entendu leurs avis, a décidé que le moyen le plus sûr d'y parvenir serait la création d'une compagnie commerciale qui s'engageât à prendre sur elle ce commerce pendant six ans, nous avons constitué cette compagnie, dont vous connaissez les statuts.

¹ Archives du Ministère de la Marine.

Les Anglais de Bombay, ne pouvant prendre leur parti de cette expulsion, trouvèrent moyen d'obtenir de Goa un passeport au nom du Portugais Antonio Pereira, négociant de la dite ville (Goa) pour la corvette "Sainte Anne" (qui avait appartenu à G. Bolts), et qu'ils chargèrent à Bombay.

A son arrivée à Lourenço Marques l'année dernière (1782) elle n'y fut pas admise par le Gouverneur Joaquim de Araujo, auquel le navire devint suspect. En effet, "malgré le pavillon Portugais, et le soi-disant capitaine Portugais," il était dirigé par "l'Anglais," Thomas Burton, qui avait été le Commandant d'un des navires Autrichiens chassés de la baie en 1781.

Repoussée de Lourenço Marques la corvette arriva à Mozambique où le capitaine Anglais Burton mourut; l'on découvrit parmi ses papiers un livre où il y avait la copie d'une lettre de Guillaume Bolts.

Maintenant (1783) c'est la troisième fois que la corvette entreprend le voyage de la baie de Lourenço Marques. Elle a un passeport Portugais obtenu à Goa, mais elle est sortie de Bombay, et n'apporte pas de manifeste de son chargement.

Un pilote Portugais figure comme capitaine, mais tout le reste est composé d'Anglais.

Antoine Pereira, négociant de Goa (Inde Portugaise), figure comme armateur du navire; mais ce n'est pas la première fois qu'il prête son nom à cette fausseté; et Michel de Lima e Sousa, qui joue le rôle de chargeur, quoiqu'il soit Portugais résidant à Bombay, n'est que l'agent et le prête-nom de l'Anglais Guillaume Bolts.

(Signé)

VICTORINO JOSE GARCIA.
DUARTE AURELIO DE MENEZES.
AGOSTINHO JOSE GARCIA.
JOAQUIM JOSE RANGEL.

(Mo. 122.)

Dépêche du Conseil du Gouvernement de Mozambique, au sujet de la Baie de Lourenço Marques, 19 Août, 1785.¹

(Traduction.)

Excellence,

Mozambique, le 19 Août, 1785.

Par votre lettre du 25 Avril, 1784, vous nous annoncez l'envahissement de cette partie de la côte de l'Afrique par les étrangers et le préjudice que ce fait cause à notre commerce, principalement dans le port de la Baie de Lourenço Marques. Nous pouvons vous affirmer, et vous en donnerez connaissance à Sa Majesté, que, depuis la destruction, par l'expédition envoyée de Goa, de l'établissement ébauché par Guillaume Bolts, nous avons employé tous nos efforts à empêcher l'envahissement par les nations étrangères de ce point important de nos possessions. De 1781 à 1782, le Gouverneur de cette Province, le Lieutenant-Colonel Vicente Caetano de Maia e Vaseoncellos, a fait partir un navire d'une force suffisante, avec un Gouverneur et des troupes, pour fortifier Lourenço Marques et y rétablir la factorerie. Il arriva toutefois que le dit Gouverneur mourut et que le Général Pedro de Saldanha e Albuquerque y envoya un Lieutenant nommé João Henriques de Almeida, lequel oubliant ses devoirs et les ordres reçus, abandonna ce port sous de frivoles prétextes. Nous succédâmes au général et sans perte de temps nous fûmes partir une nouvelle troupe ainsi que l'exigeait la circonstance. Pendant la mousson de 1784 nous avons encore renforcé la garnison de Lourenço Marques en y envoyant le Capitaine Don Diogo Antonio de Barros Souto Maior, avec trente hommes, ce qui a porté à cinquante l'effectif de la garnison. Il en est résulté un grand avantage, puisque les associés de la compagnie ont fait venir un premier chargement de 25 *bares* d'ivoire, et pendant l'actuelle mousson d'Août un autre de 45. Ce port peut devenir un des plus importants de cette côte, et produire des droits considérables pour Sa Majesté; il faut toutefois que les hommes ne manquent pas dans notre garnison, afin de suppléer aux besoins du détachement que nous y avons envoyé. Les droits que l'on paye dans ce port ont été établis à 8 pour cent, par le Gouvernement intérimaire qui a succédé au Général Balthazar Manuel Pereiro do Lago, afin de rendre ce commerce plus facile pour les négociants de cette place, qui l'avaient abandonné depuis plus de neuf ans à cause du préjudice qui en revenait à ceux qui y envoyaient des marchandises, alors qu'ils payaient des droits se montant à 21 pour cent.

Dieu garde, &c.

(Signé)

EVEQUE DE PENTACOMEA.
ANTONIO JOSE DE MORAES DURAO.
VICENTE DE A. DO REGO E VASCONCELLOS.

A son Excellence Martinho de Mello e Castro.

(No. 123.)

(Copie textuelle.)

Lettre du Capitaine du Navire Hollandais "La Perle," au Gouverneur de Mozambique, 18 Juillet, 1787.¹

Mon Général,

A bord de "La Perle," mouillée à Rio Delagoa, ce 18 Juillet, 1787.

Comme l'occasion se présente maintenant, je prends la liberté de vous communiquer qu'étant parti de Ceylan, le 25 de Novembre, 1786, pour l'Europe, j'ai eu le malheur de perdre mon grand

¹ Archives du Ministère de la Marine.

mât et le mât d'artimon à la hauteur de l'Île de France le 26 Décembre, ayant eu jusqu'à 13 pieds d'eau dans la cale, et après avoir fait là mes réparations je suis parti le 15 Avril pour le Cap de Bonne Espérance; mais après avoir souffert trois véhémentes tempêtes et étant déjà rendu dans la vue du Cap, une quatrième tempête m'a chassé si loin du côté de l'est que ne voyant plus de possibilité pour me rendre au dit Cap, comme les vivres et l'eau à boire me commençoient à manquer et que mon vaisseau faisait aussi beaucoup d'eau et l'équipage s'affoiblissoit tous les jours par les fatigues, j'ai été obligé le 8 de Juin de fuir vent arrière et de me rendre ici; en arrivant ici j'ai fait part de tout cela au Gouverneur, en demandant toute assistance qu'il me pourroit donner ici, ce que le Gouverneur m'a aussi promis de faire, mais c'étoit, comme j'ai vu ensuite, à une condition bien sévère, comme il me demandait quatre ou cinq fois plus pour les vivres et rafraîchissements, que je les pouvois acheter des gens du pays; il me demande, entre autres, 15 piastres pour un bœuf que j'achète ici pour une pièce de toile, qui me revient à 2½ piastres, et de même du riz, de pois, et autres provisions, pour quelles raisons je n'ai pas pu jouir des bonnes présentations du Gouverneur qui s'est fâché pour cela, et me tracasse tous les jours par l'une ou l'autre affaire; il a défendu même aux capitaines des vaisseaux de ne pas venir à mon bord, ni de me donner la moindre assistance ou de m'inviter chez eux; toutes choses qui ne conviennent guère à un honnête homme, de plus que nos nations sont alliées et en paix même depuis longtemps, et que nous faisons tout ce que nous pouvons quand il arrive quelques vaisseaux Portugais dans les ports de nos Colonies; aussi me paroît-il que le Gouverneur tâche à me troubler avec les Princes de cette terre, qui m'ont dit de mettre ma tente là où que je l'ai mise, et qu'ils me feroient procurer les vivres dont j'aurois besoin, comme il veut m'empêcher d'acheter d'eux, et contraindre d'abattre ma tente, ce que je ferai pour ne plus avoir aucune histoire avec ce Gouverneur, mais je lui ai écrit que tous les malheurs qui peuvent dériver de cela seront à son compte; comme le Matola et Cappella veulent absolument que je laisserai ma tente là où qu'ils m'ont dit de la mettre pour acheter mes vivres d'eux, aussi le Gouverneur m'a envoyé un proteste hier au soir, que je l'ai répondu toute suite, mais comme le temps me manque à présent, je ne puis pas avoir la satisfaction de vous envoyer la copie de ma réponse, ne doutant pas que le Gouverneur la vous enverra bien; entre autres suis-je menacé du Gouverneur que mon vaisseau seroit arrêté, et que la cargaison seroit confisquée, et que vous, mon Général, arrêteriez les vaisseaux à Mozambique, s'il s'y trouvoient quelques de ma nation là, fermes qui sont vraiment très fortes, de plus que nous ne savons pas d'avoir fait ici aucun tort ni au Gouverneur, ni au pavillon que j'ai salué en entrant, et j'ai fait en personne mon compliment au Gouverneur; enfin je pense d'avoir fait tout ce que je pouvois; à présent le Gouverneur me fait dire par le Capitaine Montanha de la palle que si je veux acheter chez lui mes vivres, et ne plus acheter à terre, mais détruire ma tente, qu'il oubliera le tort que je lui ai fait et au pavillon, sinon, qu'il donnera ordre de faire cesser toutes communications entre nos deux nations, et que je dois donner ordre de ma part à mon équipage de ne plus avoir communication avec les sujets de Sa Majesté. J'ai répondu sur cela, comme ci en haut que j'abattrais ma tente, mais que je ne puis pas garantir pour les suites, comme je reconnois Matolla et Cappella pour des Princes qui n'ont pas beaucoup de raisonnement et qui veulent absolument que j'achète mes vivres de leurs sujets.

En finissant celle-ci, je prends la liberté de me recommander à votre protection et amitié, mon Général, vous témoignant que je serai toujours avec beaucoup de vénération, votre, &c.

(Signé) C. IN'T ANKER.

(No. 124.)

(Copie textuelle.)

Lettre envoyée au Capitaine In't Anker, Commandant le vaisseau de la Compagnie des Indes Hollandaises "La Perle," par le Gouverneur de Lourenço Marques, 29 Juillet, 1787.

Monsieur,

Au Gouvernement, le 29 Juillet, 1787.

Ayant eu assez de bonne foi pour vous croire sur la parole que vous m'avez donnée, dans votre dernière réponse, j'ai resté fort tranquille, et n'ay pris aucune information sur vous; aujourd'hui j'ai appris par voie étrangère, que vous achetiez des vivres de l'autre côté, avec les toiles que vous avez à bord; je vous ay déjà prévenu que toutes marchandises étrangères étoient défendues dans tous les ports de Sa Majesté Très-Fidèle. A cet effet je vous ay proposé de vous rendre à ce Gouvernement, pour vous régler l'achat des vivres, sans que cela puisse se faire avec vos marchandises; à cet effet vous m'avez fait réponse, que vous en aviez encore à bord et que lorsque vous en auriez besoin, vous viendriez me trouver; d'après cela il est étonnant que vous me manquiez de parole, et qu'étant sous l'obéissance d'un Gouvernement du même Souverain, vous persistiez à y faire un commerce qui est absolument contre les lois; vous me ferez à ce sujet et sans perdre de temps une réponse claire et décisive, non-seulement pour en informer mon Général, mais pour prendre les mesures convenables et précises sur cet attentat qui d'ailleurs est plus insupportable depuis que vous m'avez donné votre réponse sur une affaire aussi délicate que celle qui regarde les intérêts d'un Souverain; et vous serez responsable à ma Reine, au Prince d'Orange et aux États-Généraux de toutes les conséquences qui pourront arriver de votre désobéissance.

(Signé)

JOAQUIM JOSE DA COSTA PORTUGAL.

(No. 125.)

Dépêche du Gouverneur de Mozambique, annonçant au Gouverneur de l'Inde que des navires Anglais portant pavillon Français allaient négocier dans la Baie de Lourenço Marques, 19 Août, 1790.¹

(Traduction.)

Excellence,

Mozambique, 17 Août, 1790.

On m'annonce de la Baie de Lourenço Marques, que pendant cette dernière année, aux mois de Juin, Juillet, et Août, deux navires étrangers sont venus dans cette baie faire la pêche des baleines qui étaient harponnées par de petites embarcations que ces navires apportaient dans ce but, et que, pendant la même année, un autre navire était arrivé, vers les premiers jours de Mai, dont les officiers avaient répondu à l'envoyé du Gouverneur qui s'était rendu à bord pour les reconnaître et s'informer du but de leur voyage, qu'ils venaient y continuer la pêche et attendre les deux navires qui étaient venus l'année précédente, et qui n'étaient pas encore arrivés attendu qu'il était encore trop tôt pour cette pêche, qui doit se faire dans ces parages, comme dans toutes les autres mers où elle a lieu, de la moitié du mois de Juin jusqu'aux derniers jours d'Août. Comme cette province ne possède pas une marine suffisante pour pouvoir chasser de cette baie et des mers environnantes ces navires dont on ne peut connaître la nationalité, puisqu'ils portent *pavillon Français* et sont occupés par des *équipages Anglais* se montant à une quinzaine d'hommes par navire, je fais part à votre Excellence de cet événement afin qu'elle prenne ses mesures, en conformité avec les instructions de Sa Majesté adressées à son prédécesseur par voie du Ministère des Colonies, le 15 Mars, 1783.

Dieu garde, &c.

(Signé)

ANTONIO MANUEL DE MELLO E CASTRO.

A son Excellence Francisco da Cunha e Menezes.

(No. 126.)

Dépêche du Gouverneur de Mozambique, annonçant les mêmes nouvelles au Gouvernement, 23 Août, 1790.¹

(Traduction.)

Excellence,

Mozambique, 23 Août, 1790.

Les nouvelles que j'ai reçues de la Baie de Lourenço Marques me font savoir que des navires étrangers y sont venus faire la pêche de la baleine et que les petites embarcations occupées à cette pêche harponnent les baleines dans toute l'étendue de cette baie, c'est-à-dire depuis l'île nommée Magaia, située à l'embouchure du fleuve Manhissa, jusqu'à le pointe de Mafumo, à trois quarts de lieue de notre fort.

Ni le Gouverneur du Cap des Courants, qui a donné cette nouvelle, ni l'officier envoyé par lui à bord de ces navires, autant cette année que l'année dernière, pour les visiter et s'informer du but de leur voyage, ne peuvent à cet égard me renseigner d'une manière satisfaisante. J'ai pu seulement apprendre par cet officier que l'année dernière, pendant les mois de Juin, Juillet, et Août, deux navires à trois mâts, l'un de 400 et l'autre de 600 tonneaux environ, sont venus pour la première fois dans cette baie, qu'ils portaient *pavillon Français*, mais que tout leur équipage, se montant à quatorze ou quinze hommes par navire, était *Anglais* et que, de la même manière, pendant cette année un autre navire, portant également *pavillon Français* et *équipage Anglais* était venu dans la baie, pendant le mois de Mai.

J'ai fait part de cette nouvelle au Gouverneur et Capitaine-Général des Etats de l'Inde en conformité avec les instructions de Sa Majesté, adressées à son prédécesseur par avis de votre Excellence du 15 Mars, 1783, afin qu'il prenne les mesures qui lui paraîtront convenables, notre province ne possédant pas la force maritime nécessaire pour chasser les susdits navires de cette baie et des mers environnantes, et à votre Excellence je donne le même avis afin qu'elle le place sous les yeux de Sa Majesté si elle le juge convenable.

Dieu garde, &c.

(Signé)

ANTONIO MANUEL DE MELLO E CASTRO.

A son Excellence Martinho de Mello e Castro.

(No. 127.)

Dépêche du Gouverneur de Mozambique, annonçant que des navires Anglais portant le pavillon d'une autre nation se rendaient dans la Baie de Lourenço Marques, 31 Août, 1791.¹

(Traduction.)

Excellence,

Mozambique, 31 Avril, 1791.

Après avoir écrit à votre Excellence au sujet de bâtiments étrangers qui venaient dans la Baie de Lourenço Marques pour s'y livrer à la pêche de la baleine, j'ai encore à apprendre à votre Excellence qu'un navire ayant été faire le voyage annuel de cette baie et se trouvant de retour, j'ai su, par l'un de ses officiers, chargé par moi de vérifier exactement à quelle nation appartenait ces bâtiments et dans quel port ils avaient été frétés, que ces navires sont effectivement armés à Dunkerque, mais qu'il y a tout lieu de croire "qu'ils n'ont de Français que leurs passeports et leur pavillon," et qu'ils sont

¹ Archives du Ministère de la Marine.

Anglais d'Europe ou d'Amérique, attendu que tout ou presque tout leur équipage est Anglais et a toujours été reconnu pour tel depuis que ces navires ont fait leur apparition sur cette côte.

Dieu garde, &c.

(Signé) ANTONIO MANUEL DE MELLO E CASTRO.

A son Excellence Martinho de Mello e Castro.

(No. 128.)

Dépêche du Gouverneur de Mozambique, annonçant avoir de nouveau occupé Lourenço Marques dont la ville avait été incendiée par des Corsaires Français, 5 Août, 1799.¹

(Traduction.)

Excellence,

Mozambique, 5 Août, 1799.

Je vous ai annoncé dans ma dépêche en date du 12 Décembre, 1797, que, à mon arrivée dans cette capitainerie, j'avais trouvé le fort de la Baie de Lourenço Marques abandonné à cause de l'invasion des Français, ainsi que mon prédécesseur vous en avait fait part dans sa dépêche du 23 Août de la même année. J'ai nommé Luiz Correia Monteiro de Mattos Gouverneur de cette place, et j'ai mis sous ses ordres une garnison semblable à celle qui y était auparavant. Plus tard, je me suis vu forcé par les circonstances à faire de nouveau garnir cette place par des soldats placés sous les ordres du Lieutenant Luiz José, attendu que le premier de ces officiers m'était devenu indispensable pour le commandement des expéditions dirigées contre le Cheik de Quintangonha, qui s'était révolté, et aussi parce que j'avais un grand besoin de soldats et de marchandises, et qu'il n'en était pas venu des ports d'Asie, à cause de la guerre des Français. J'ai confié au Lieutenant Luiz José les instructions incluses dans le présent document; vous pourrez par ce moyen connaître les motifs qui m'ont obligé à prendre cette nouvelle mesure qui me semble non-seulement la plus convenable à l'état des forces de cette capitainerie, tant en hommes comme en munitions, mais aussi la plus propre à réprimer l'avidité des Français qui voudraient y retourner, le premier détachement n'étant pas suffisant pour les repousser. Cette mesure me semble aussi avoir pour résultat le maintien de la possession du domaine Portugais uniquement au moyen du commerce avec les Cafres voisins de ce fort, ce qui est suffisant. Cependant j'aurai toujours en vue le rétablissement de cette place, où je mettrai des renforts et un nouveau Gouverneur, aussitôt que je serai en mesure de le faire, et que Sa Majesté, comme je le désire, m'aura envoyé d'Europe les secours dont j'ai, dans l'actuelle conjoncture, le plus urgent besoin.

Dieu garde, &c.

(Signé)

FRANCISCO GUEDES DE CARVALHO E MENEZES DA COSTA.

A son Excellence D. Rodrigo de Sousa Coutinho.

ANNEXE.

Instructions pour le Gouverneur par intérim de la Baie de Lourenço Marques, 5 Février, 1799.

Le Gouverneur de la Baie de Lourenço Marques, Louis Joseph, qui pendant cette mousson se tendra dans la dite baie pour y exercer ses fonctions, exécutera ce qui lui est ordonné dans ces instructions de la manière suivante :—

Aussitôt que le brick "Minerve," qui le transporte ainsi que les troupes, les munitions, et les vivres, aura jeté l'ancre dans le port, le Gouverneur, assisté du capitaine du navire, fera appeler les régules de la côte, et leur fera savoir que nous voulons rétablir l'ancien établissement qui a été envahi et détruit par les corsaires Français, afin de conserver l'ancienne possession du domaine Portugais sur ce territoire, planter notre drapeau, et maintenir le commerce avec les dits régules, en leur fournissant les marchandises comme d'habitude pour leur faire ce bénéfice, en attendant que la paix nous permette d'envoyer des forces plus nombreuses et une plus grande quantité de marchandises, ce dont on ne peut disposer maintenant, ce qui d'ailleurs serait imprudent dans les circonstances actuelles où elles seraient exposées à un nouveau pillage, n'étant pas défendues par une garnison suffisante.

L'ancienne amitié ainsi rétablie avec les Cafres, le Gouverneur fera débarquer tous les effets, et il commencera à faire rétablir sa résidence, la fortification et la caserne pour les soldats qui l'accompagnent, et cela aussi rapidement que possible; et il emploiera à ces travaux les soldats et l'équipage du navire que le capitaine pourra détacher pour ce service que je recommande à son zèle et à son activité, afin que, au moment où le navire devra se retirer, le détachement et le matériel soient dûment abrités, et le pavillon Portugais déjà arboré à l'endroit le plus convenable; le Gouverneur et le capitaine devront bien se persuader que notre but principal et immédiat est d'assurer la possession du commerce exclusif dans les limites d'un territoire appartenant à Sa Majesté Très-Fidèle; ils emploieront donc tous les moyens qui leur seront suggérés par leur intelligence à la suite de leurs relations avec les régules et les Cafres.

Une fois toutes ces choses arrangées pour le mieux, le Gouverneur fera distribuer les soldats par chambrées, et leur fera acheter au meilleur marché tout ce dont ils auront besoin, mais sans toutefois diminuer leur solde de manière à ce qu'ils en souffrent, car le but de cet ordre est d'éviter qu'ils dépensent tout leur avoir au préjudice de leur nourriture, et en même temps de les tenir toujours réunis pour la plus grande sûreté du fort.

Le Gouverneur apportera aussi le plus grand soin à maintenir et à développer chez les dits régules et Cafres la conviction que ce territoire et cette mer de la Baie de Lourenço Marques appartiennent légitimement par différents titres à Sa Majesté, inspirant à ces peuples l'amour et l'obéissance qu'ils

¹ Archives du Ministère de la Marine.

doivent à la Couronne de Portugal ; et il fera savoir à tout navire étranger qui pénétrera dans la baie que cet établissement fait partie des domaines de Sa Majesté Très-Fidèle, et qu'il est défendu à n'importe quelle nation d'y aller faire le commerce, et que quoique notre Souveraine n'y ait pas à présent toutes les forces nécessaires pour opposer une résistance suffisante aux navires qui oublieraient les droits de sa Couronne, elle adressera ses plaintes à leurs Gouvernements et leur demandera satisfaction.

Le Gouverneur devra pourtant offrir aux capitaines des navires qui entreront dans la baie pour des motifs plausibles, de leur procurer chez les régules et les Cafres de cette côte tout ce dont ils auront besoin pour l'approvisionnement de leurs navires, en leur faisant savoir que Sa Majesté considère comme une attaque à ses droits qu'ils fassent ces démarches eux-mêmes, qu'ils envoient leurs chaloupes à terre, et qu'ils y fassent le commerce avec les régules en obtenant des provisions en échange de poudre et de fusils.

Dans tous les contrats entre nos soldats et les Cafres, on se conduira toujours avec la bonne foi et la douceur qui sont propres de la nation Portugaise sans l'emploi d'aucune violence, de manière à leur inspirer l'amour qu'il doivent avoir pour nous.

Le Gouverneur et le capitaine du navire garderont toujours la meilleure harmonie ; ils n'auront qu'une seule volonté pour l'exécution de tout ce qui intéressera le service de Sa Majesté et le bien de notre commerce. Ils délibéreront toujours d'un commun accord sur tout ce qu'ils auront à faire dans ce but, et tous deux me tiendront au courant des événements et autres particularités concernant le commerce et la situation de la baie.

Comme il n'est pas dans mes vues que le détachement chargé de rétablir notre fortification soit sacrifié dans un combat inégal, le Gouverneur devra apporter tous ses soins à chercher d'avance les moyens de mettre en surêté la garnison, l'approvisionnement et le matériel appartenant à Sa Majesté, en choisissant, d'accord avec les régules et les Cafres du voisinage, un emplacement à l'intérieur des terres où il puisse se retirer en cas de besoin, et y être en sûreté contre l'ennemi autant par la protection de ces régules que par l'éloignement de la côte et la crainte qu'éprouverait l'ennemi de venir l'attaquer dans une telle position. Et comme dans de semblables circonstances, l'expérience a souvent démontré, surtout dans les Colonies d'Afrique et d'Asie, que quelquefois un seul individu doué de sagacité et d'énergie réussit, en s'attirant des alliés soit par des négociations amicales ou par adresse, soit en employant la force que d'autres alliés peuvent lui fournir, si vous vous trouvez dans cette position, vous ne manquerez pas de repousser une attaque si vous croyez avoir des forces suffisantes pour résister.

Les moyens que vous devez employer pour le faire se réduisent à convaincre les régules et les Cafres que notre établissement, notre amitié et le commerce de nos étoffes leur conviennent, et à vous servir de l'amitié des uns pour obtenir celle des autres en les punissant, mais en ne le faisant jamais que pour des motifs dont ils soient les premiers à reconnaître la justice ; en augmentant ainsi nos forces vous pourrez vous mettre en état, non-seulement d'être complètement garanti contre les ennemis de l'intérieur mais encore contre tous étrangers qui viendraient vous attaquer par la voie de mer.

Le Gouverneur par intérim n'oubliera pas de faire connaître aux régules pourquoi, pendant cette mousson, tous les objets de commerce de cette côte n'ont pas été envoyés, et cela parce que nous n'avons pas reçu de marchandises d'Asie à cause de la guerre avec la France. Il leur fera sentir que le Gouverneur n'est pas parti avec tous les officiers et toute la troupe pour le même motif du manque d'approvisionnements pour leur subsistance, et du besoin qu'on a ici de leur présence ; que le détachement même qu'on a envoyé ne serait pas suffisant pour résister à une attaque des Français, si les régules et les Cafres ne nous venaient en aide ; et enfin que ce qu'il nous convient en attendant c'est d'y maintenir la possession du domaine de Sa Majesté, de fournir aux régules et aux Cafres les effets de commerce comme d'habitude, et de ne pas provoquer, par un grand entassement de marchandises dans ce fort, pendant la guerre, la cupidité des corsaires Français afin d'éviter qu'ils pillent une autre fois notre établissement.

Le Gouverneur par intérim fera amasser peu à peu tout le bois qu'il pourra pour l'accroissement futur de la résidence et de la fortification. Cet accroissement aura lieu aussitôt l'arrivée du Gouverneur avec toute la garnison et le matériel y destinés ; et je compte que l'expédition aura lieu au mois de Mars, après l'arrivée des marchandises du nord. En attendant, des fournitures pour le détachement sont envoyées pour un an, ainsi que le Gouverneur par intérim le verra par la facture expédiée par le Comité des Finances Royales, et dont il mettra en compte les recettes et les dépenses sur un livre remis par ce Comité qui lui servira pour sa décharge attendu que ceux qu'il y avait dans la forteresse sont perdus. Sur un autre livre il écrira tous les ordres qu'il recevra de ce Gouvernement, et ainsi il fera de ces instructions qu'il devra suivre exactement.

(Signé) FRANCISCO GUEDES DE CARVALHO E MENEZES DA COSTA.

Mozambique, ce 5 Février, 1799.

(No. 129.)

Dépêche du Gouverneur de Lourenço Marques, annonçant au Gouverneur de Mozambique son établissement sur les terres du Tembe à cause de la guerre qui dévastait celles de Matolla, 6 Août, 1799.¹

(Traduction,)

Excellence,

Baie de Lourenço Marques, ce 6 Août, 1799.

Aussitôt arrivé au port de ma destination, le 7 Juin, j'ai exécuté les ordres de votre Excellence ; j'ai trouvé tout dans le plus grand désordre, mais avec toute la prudence possible et d'accord avec le

¹ Par copie dans la dépêche du Gouverneur de Mozambique du 3 Novembre, 1801, aux archives du Ministère de la Marine.

capitaine du vaisseau, j'ai tâché de construire le nouvel établissement à la place où se trouvait le précédent ; mais cela n'a pas été possible parce que le régule que nous avons fait appeler le 9 Juin, nous dit que comme il était en guerre avec d'autres tribus, il lui était impossible pour le moment de nous recevoir comme il le fallait ; le 5 Juillet il envoya à notre bord un de ses fils nommé *Litungo* qui reçut au nom de son père les présents d'usage. Nous nous sommes décidés, en vue de ces faits, à arborer notre drapeau sur les terres du *Capella*.¹

Dieu garde, &c.
(Signé) LUIZ JOSE.

(No. 130.)

*Dépêche du Gouverneur de Mozambique, annonçant qu'une galère Anglaise de Bombay qui essayait de soulever les Cafres contre la Souveraineté Portugaise, avait été chassée de la Baie de Lourenço Marques à coups de canon, 30 Septembre, 1815.*²

(Traduction.)

Excellence,

Mozambique, ce 30 Septembre, 1815.

La Baie de Lourenço Marques étant un des établissements les plus importants que nous possédions sur la Côte Orientale d'Afrique, et celui qui inspire le plus de jalousie aux étrangers à cause de sa position géographique, de la salubrité de son climat, et surtout des richesses commerciales qu'il offre tant par la pêche de la baleine, que par l'ivoire qui y abonde, j'ai toujours eu, depuis le moment de mon entrée en fonctions comme Gouverneur, le désir de défendre cette position avec une force suffisante à repousser toute tentative d'usurpation de notre possession sur ce territoire, puisque déjà autrefois les Autrichiens ont essayé de s'en emparer, et qu'il a fallu faire venir de Goa une expédition pour les en chasser. Mais l'état pitoyable dans lequel j'ai trouvé cette colonie complètement épuisée de troupes et d'argent ne m'a permis d'exécuter mon plan qu'au mois de Mai de la présente année, époque où j'ai fait partir pour la baie un brick avec le sergent-major de cette place, Antoine Joachim Freire de Ouedo, nommé Gouverneur de la Baie. C'est un officier actif et capable ; je lui ai adjoint *cipayes* pour renforcer le détachement et fournir des fusils, des munitions de guerre et un assortiment de marchandises pour la factorerie ; et quoique ce secours soit encore insuffisant pour un point qui se trouvait presque sans défense, j'ai fait tout ce que les ressources si restreintes de ce Gouvernement m'ont permis.

Le navire arriva bien à propos dans la Baie de Lourenço Marques, car il y trouva une galère Anglaise à l'ancre, qui était venue de Bombay avec un chargement de marchandises, et dont le capitaine cherchait à accaparer tout le commerce de l'ivoire à la complète exclusion des Portugais ; "l'audace de ce capitaine alla jusqu'à soulever les nègres de cette côte contre nous jusqu'à donner asyle à deux déserteurs" qui s'étaient réfugiés à bord de son navire, et enfin à se moquer des injonctions de l'officier qui commandait alors dans la baie.

Le dit sergent-major aussitôt installé dans son Gouvernement fit enjoindre au capitaine de la galère de se présenter devant lui muni de son passeport et de ses autres papiers ; celui-ci refusa d'obéir et il continua effrontément son commerce. Le Gouverneur prit la résolution (que je trouve la plus avisée) de le chasser de la baie par la force, et comme la galère était à l'ancre dans un endroit hors de la portée de l'artillerie du fort, il fit conduire pendant la nuit deux pièces de canon qu'il plaça à un endroit convenable. Dès le point du jour il ouvrit le feu contre la galère avec un tel succès qu'au troisième coup de canon le navire quittait ses amarres et remontait le fleuve après avoir éprouvé de fortes avaries, et le lendemain matin il faisait voile vers la haute mer, non sans essuyer un feu très vif de nos batteries.

J'ai communiqué ce fait au Gouverneur de Bombay, comme votre Excellence le verra par la copie ci-jointe, en le priant d'empêcher à l'avenir de semblables expéditions ; et quoique je sois convaincu que les Anglais ne retourneront plus dans la baie, attendu qu'ils y ont été fort malmenés et qu'ils y ont fait une malheureuse spéculation, j'ai cependant cru qu'il était de mon devoir de communiquer le fait à votre Excellence afin qu'elle prenne à cet égard les mesures qu'elle jugera convenables.

Dieu garde, &c.
(Signé) MARCOS CAETANO DE ABREU E MENEZES.

Son Excellence Antonio de Araujo de Azevedo.

ANNEXE.

Excellence,

Mozambique, ce 15 Août, 1815.

Le 12 Mars dernier est entré dans la Baie de Lourenço Marques, possession Portugaise de la côte Orientale d'Afrique, la galère nommée "Persévérance," Capitaine Thomas Ramsden, avec pavillon Anglais, venant de Bombay avec un chargement de marchandises pour faire le commerce avec les nègres de ce territoire. Le Gouverneur de la Baie a fait savoir au capitaine qu'il ne pouvait pas l'y admettre dans ce but, sans qu'il obtînt un permis du Général de Mozambique, son supérieur ; mais voyant qu'il persistait dans sa tentative, il lui a fait notifier le protêt dont j'envoie copie à votre Excellence, ne voulant pas employer contre lui la force, attendu que nous étions en bonne paix et alliance avec l'Angleterre. Le dit capitaine ne se borna pas à faire ouvertement le commerce avec les Cafres contre les défenses de ce Gouvernement ; "son audace alla jusqu'à exciter les nègres à la revolte

¹ C'est-à-dire, sur le territoire du Tembe.

² Archives du Ministère de la Marine.

contre la garnison au moyen de présents," et à donner asile à son bord à deux déserteurs qu'il n'a pas voulu rendre, malgré les réclamations du Gouverneur. Cette conduite est entièrement contraire au droit des gens et à la bonne foi des Traités existant entre les deux Couronnes ; car quoique d'après le Traité de Commerce et Navigation il soit permis aux Anglais de faire le commerce sur la Côte Orientale d'Afrique, cela ne peut s'entendre si généralement, et les Anglais ne peuvent être reçus que dans les ports où il y a des Douanes, en y payant les 15 pour cent de droits de leurs marchandises, d'après l'Article XV du Traité ; et comme il n'y a pas de Douane à Lourenço Marques, il semblerait qu'ils n'y ont été qu'avec l'intention de nuire au commerce Portugais, et de porter atteinte aux droits de Son Altesse Royale le Prince Régent de Portugal.

Je prie donc votre Excellence, d'après ce que je viens de lui exposer, de vouloir bien empêcher à l'avenir de semblables expéditions à la Baie de Lourenço Marques ; et je demande en même temps une satisfaction de ce procédé et de l'outrage fait à la Couronne de Portugal.

Dieu garde, &c.

(Signé)

MARCOS CAETANO DE ABREU E MENEZES.

Son Excellence le Gouverneur-Général de Bombay.

(No. 131.)

Dépêche du Gouverneur de Mozambique, envoyant la réponse du Gouverneur de Bombay, 16 Décembre, 1816.¹

(Traduction.)

Excellence,

Mozambique, ce 16 Décembre, 1816.

J'ai communiqué à votre Excellence dans ma dépêche No. 10 du 30 Septembre de l'année dernière ce qui était arrivé avec la galère Anglaise qui, partant de Bombay avec un chargement de marchandises, s'était rendu dans la Baie de Lourenço Marques où elle avait causé de graves torts à notre commerce, comme je l'ai exposé en détail dans ma dite dépêche ; et j'ai ajouté que je m'étais adressé à ce sujet au Gouverneur de Bombay en exigeant satisfaction ; j'envoie ci-inclus à votre Excellence la réponse du Gouverneur que je trouve très satisfaisante.

Dieu garde, &c.

(Signé)

MARCOS CAETANO DE ABREU E MENEZES.

A son Excellence le Comte da Barca.

ANNEXE.

A son Excellence Marcos Caetano de Abreu Menezes, Gouverneur et Capitaine-Général de Mozambique.

Fort de Bombay, 25 Novembre, 1815.

J'ai eu l'honneur de recevoir la lettre de votre Excellence du 19 Août dernier contenant une plainte contre Mr. Ramsden, Capitaine de la "Persévérance," pour avoir fait le commerce avec les Cafres indigènes de l'intérieur de la Baie de Lourenço Marques ou Delagoa sans avoir obtenu de votre Excellence une permission préalable à cet effet, "et aussi pour avoir encouragé les indigènes à résister à l'autorité de la garnison Portugaise, de même que pour avoir donné asyle à bord de son navire à des déserteurs."

Désirant très vivement éviter toutes circonstances qui pourraient troubler les relations amicales existant entre les deux nations, et désirant aussi témoigner mon mécontentement de tous les actes de mauvaise conduite de la part de sujets Anglais placés sous mon autorité, dans leurs rapports avec des Etats étrangers, j'ai cru nécessaire de demander au propriétaire de la "Persévérance" l'explication de la conduite de son capitaine à l'occasion à laquelle se rapporte votre Excellence, et j'ai maintenant l'honneur d'envoyer à votre Excellence, "pour lui donner satisfaction," la copie de la réponse que j'ai reçue de Mr. R. Woodhouse pour excuser la conduite de Mr. Ramsden, "quant à la charge d'avoir fait le commerce dans la Baie Delagoa sans le consentement de votre Excellence."

Votre Excellence comprend très bien que je ne puis prendre connaissance des autres charges contre la conduite de Mr. Ramsden avant le retour de la "Persévérance" dans ce port ; "mais j'assure à votre Excellence que je prendrai toutes les mesures qui seront exigées par les circonstances."

J'ai, &c.

(Signé)

EVAN NEPEAR.

(No. 132.)

Dépêche du Gouverneur de Lourenço Marques à celui de Mozambique lui communiquant la mort de Jean Pereira de Sousa Caldas dans le Tembe, 2 Juillet, 1818.²

(Traduction.)

Excellence,

Lourenço Marques, ce 2 Juillet, 1818.

J'annonce à votre Excellence que le 30 Mai dernier sont entrés dans ce port les navires Portugais nommés "Espérance" et "Société," sortis de Rio Janeiro pour le commerce et l'établissement de la

¹ Archives du Ministère de la Marine.

² Avec la dépêche du Gouverneur de Mozambique du 17 Septembre, 1818, aux archives du Ministère de la Marine.

pêche de la baleine sur cette côte de l'Afrique Orientale. Un des armateurs, M. Jean Pereira de Sousa Caldas, est arrivé à bord de "l'Espérance."

Le 29 Juin M. Jean Pereira de Sousa Caldas se trouvait, comme d'habitude, de l'autre côté de l'eau dans le territoire du *Tembe* en face de cette forteresse, à l'emplacement "de notre ancienne fortification,¹ là où se trouve encore un petit détachement avec un caporal et deux soldats;" il y était allé se promener et traiter avec les nègres de cet endroit avec lesquels nous sommes en bonne harmonie; mais une dispute a surgi dont j'ignore l'origine, à la suite de laquelle il a été tué.

De votre, &c.

(Signé) MANUEL MARIA, Gouverneur par intérim.

(No. 133.)

Dépositions des Témoins dans le Procès d'enquête fait à Mozambique sur le Meurtre de Jean Pereira de Sousa Caldas dans la Baie de Lourenço Marques, sur le territoire du Tembe ou Catembe, Août, 1818.²

Onzième Témoin.

(Traduction.)

Est comparu le Sieur Dominique Baptiste, né aux Iles Açores, âgé de 24 ans, cuisinier à bord de la galère "Espérance," lequel, après avoir prêté serment de dire la vérité, entre les mains du Docteur Amaro Guedes da Silva e Sousa, Juge Civil et Criminel, a déposé ainsi qu'il suit sur le meurtre de Jean Pereira de Sousa Caldas, rapporté dans le procès-verbal ci-joint :

Que le 29 Juin l'armateur Jean Pereira de Sousa Caldas avait été avec le Chirurgien Dominique Joseph Pimenta à l'endroit nommé *Chirongueira* où est la factorerie Royale; qu'il a été ensuite de l'autre côté du fleuve au territoire du *Tembe*, où est le Roi Capella, et où il y a une maison avec un mât de pavillon; qu'ayant rencontré en montant la côte une bande de Cafres qui attaquaient les soldats, ils étaient revenu en arrière, &c.

Seizième Témoin.

Le Sieur Benoît Thomas d'Aquin, né à Rio Janeiro, âgé de 21 ans, lequel après avoir prêté serment de dire la vérité entre mes mains, par commission de M. le Juge Civil et Criminel le Docteur Amaro Guedes da Silva e Sousa, a déposé ainsi qu'il suit sur le meurtre de Jean Pereira de Sousa Caldas, rapporté dans le procès-verbal ci-joint :

Que le jour de la Saint-Pierre (29 Juin) il avait quitté le bord de la galère "Espérance," où il est tonnelier et qui était à l'ancre dans la Baie de Lourenço Marques, pour parler avec le subrécargue Torres, que celui-ci l'avait envoyé de l'autre côté au *Tembe*, à l'endroit nommé *Matombo* chercher des oignons; et qu'y ayant débarqué il avait vu les soldats Joseph Antoine et Joseph dos Santos qui prenaient leurs fusils, et qui lui avaient dit d'aller chercher un bateau, &c.

(No. 134.)

Dépêche du Gouverneur de Mozambique au Ministre de la Marine, contenant des nouvelles de Lourenço Marques, 11 Septembre, 1824.³

(Traduction.)

Excellence,

Mozambique, ce 11 Septembre, 1824.

Je reçois à l'instant une dépêche du Gouverneur de Lourenço Marques. Les nouvelles qu'elle apporte sont on ne peut plus agréables; le Gouverneur à son arrivée dans la baie y a tout trouvé dans la meilleure harmonie. Il m'annonce qu'il a été parfaitement reçu tant par la garnison que "par tous les régules du voisinage, qui sont accourus lui rendre visite et lui apporter les tributs d'usage." Il m'annonce également que la paix règne parmi les régules et que les guerres qui ont eu lieu entre eux n'avaient "été suscitées que par les spéculations Anglaises."

Dieu garde, &c.

(Signé) JOAO MANUEL DA SILVA,
Gouverneur et Capitaine-Général de Mozambique.

A son Excellence le Comte de Suberra.

No. 135.

Acte de Cession à la Couronne Portugaise de la propriété de l'Île d'Unhaca dont la Souveraineté appartenait déjà au Portugal, par le Régule Missongue de Mapouto — 1 Avril, 1870.⁴

(Traduction.)

Le 1 Avril, 1870, dans ce fort de Lourenço Marques et dans la maison du Gouverneur du District, le Major de l'armée Portugaise, Joseph Auguste de Sá e Simas, moi, Joseph de Sousa Caldas Sous-

¹ A l'endroit nommé "Matombo."

² Archives du Ministère de la Marine. Nous ne reproduisons que la partie des dépositions qui se rapportent à l'existence du Poste Militaire du Tembe en 1818.

³ Archives du Ministère de la Marine.

⁴ Archives de Lourenço Marques.

Lieutenant, exerçant par intérim les fonctions de notaire, y suis venu pour dresser ce procès-verbal dans le livre existant aux archives du Gouvernement. Une Commission composée du Sous-Lieutenant du bataillon expéditionnaire de Goa, Adolphe Auguste Arez, du Trésorier Antoine Lopes Serra et de l'interprète habitant cette ville, Antoine Joseph de Sequeira, y était présente. Les membres de cette Commission eurent le 23 Février dernier une conférence avec Missongue, le régule de *Mapouto* et des Iles de l'*Unhaca* et des *Eléphants*, par ordre du Gouverneur, afin d'obtenir la cession de la *propriété* de l'Ile de l'*Unhaca* à la Couronne de Portugal, "qui en avait déjà la souveraineté;" il n'a rien décidé sans avoir réuni ses vingt et un secrétaires qui sont de grands dignitaires dans ses domaines, et après leur avoir exposé le but de la Commission déléguée par le Gouverneur de Lourenço Marques, le dit régule Missongue, après avoir entendu leur avis, et d'accord avec eux, a résolu de céder la *propriété* de l'Ile à la Couronne Portugaise, "qui en a déjà la souveraineté;" et comme le régule ne peut pas sortir de ses terres de *Mapouto*, il a nommé trois de ses grands secrétaires, qui ont pris part à la dite séance, savoir : *Machilongana*, son Premier Secrétaire, *Nanichana*, Secrétaire de sa mère *Molaty*, très respectée par son fils Missongue et par ses sujets, et *Checambe*, Secrétaire de sa sœur *Gohica*, Régente de la dite Ile.

Et en présence du très illustre Gouverneur, de la Commission, des habitants Antoine Gabriel de Gouveia, Aichande Bogoamdar, Ibramo Dand, Ismalgy Solamangy, Amarchande Othomachande et Pierre Antoine de Oliveira, du Curé Gaetan Rosario do Valle, et des officiers de la garnison Emmanuel Joachim da Silva Machado, Adolphe Auguste Arez, Jean dos Santos, Gaspar de Abreu Castello Branco, Guillaume Auguste de Sousa, et des fonctionnaires publics, le Directeur de la Douane Antoine Teixeira Marques, le Greffier de la Douane Antoine Joachim Teixeira Homem, le Trésorier Antoine Lopes Serra, le Greffier des Finances Justin Césas Duarte de Macedo, et l'interprète Antoine Joseph de Sequeira, tous convoqués par le Gouverneur du district pour assister à cet acte, les trois secrétaires ci-dessus nommés, et qui se trouvaient présents, ont déclaré qu'ils venaient de la part du régule Missongue communiquer au Gouverneur de Lourenço Marques que, d'accord avec les grands de sa Cour, il cédait la *propriété* de l'Ile de l'*Unhaca* aux Portugais qui "depuis bien des années, dépassant la mémoire des hommes, en avaient la souveraineté," et qui pourraient en faire ce que bon leur semblerait.

Et pour le constater on a dressé ce procès-verbal, écrit et signé par moi Joseph de Sousa Caldas, Sous-Lieutenant, exerçant par intérim les fonctions de notaire public, et par toutes les personnes ci-dessus indiquées, sauf les trois secrétaires et envoyés du régule Missongue de Mapouto, lesquels ne savent ni lire ni écrire.

(Signé)

JOSEPH AUGUSTE DE SA E SIMAS, *Gouverneur.*

GAETAN ROSARIO DO VALLE, *Curé.*

ANTOINE GABRIEL DE GOUVEIA.

ARICHANDE BOGOAMDAR.

IBRAMO DAND.

ISMALGY SALAMANGY.

AMURCHANDE OTHOMURCHANDE.

PIERRE ANTOINE DE OLIVEIRA.

EMMANUEL JOACHIM DA SILVA MACHADO, *Sous-Lieutenant.*

ADOLPHE AUGUSTE AREZ, *Sous-Lieutenant.*

JEAN DOS SANTOS, *Sous-Lieutenant.*

GASPARD DE ABREU CASTELLO BRANCO, *Sous-Lieutenant.*

GUILLAUME AUGUSTE DE SOUSA, *Sous-Lieutenant.*

ANTOINE TEIXEIRA MARQUES, *Directeur de la Douane.*

ANTOINE JOACHIM CARNEIRO HOMEM, *Greffier de la Douane.*

ANTOINE LOPES SERRA, *Trésorier.*

JUSTIN CESAR DUARTE DE MACEDO, *Greffier des Finances.*

ANTOINE JOSE DE SEQUEIRA.

JOSEPH DE SOUSA CALDAS, *Sous-Lieutenant d'Infanterie.*

No. 136.

Dépêche du Gouverneur de Lourenço Marques au Secrétaire du Gouvernement Général de Mozambique.—
10 Avril, 1870.¹

(Traduction.)

Monsieur,

Lourenço Marques, ce 10 Avril, 1870.

Le régule de Mapouto, *Missongue*, m'a fait demander trois caisses de fusils, de poudre et de balles, et m'a prié de lui livrer le régule du Tembe *Bacute*, qu'il hait depuis longtemps, et auquel il a causé de graves dommages en lui faisant la guerre; et comme ce régule du Tembe se réfugie toujours dans notre fort, c'est pourquoi il me demandait de le lui livrer. Comme je m'y suis refusé, les trois secrétaires du *Missongue* retournèrent à Mapouto chargés de lui dire que je fournirais volontiers les marchandises, mais que je ne livrerais pas le régule du Tembe. Le régule de Mapouto, ayant entendu ses vingt et un secrétaires, se soumit à ma décision au sujet du régule du Tembe, et borna sa demande aux objets qu'il avait sollicités.

Dieu garde, &c.

(Signé)

JOSE AUGUSTO DA COSTA SIMAS, *Gouverneur.*

M. le Secrétaire du Gouvernement Général.

¹ Archives du Ministère de la Marine.

Extrait du Rapport de Frédéric Elton, Consul Anglais à Zanzibar, sur les Possessions Portugaises de Mozambique.—20 Mars, 1873.¹

(Traduction.)

A la Baie de Lagoa les influences locales se combinent contre la traite. Il existe un commerce considérable entre Natal et ce port ; les Portugais sont en mauvais rapports avec les tribus voisines, et l'émigration qui va chercher du travail à Natal est populaire chez les Amatongas, tribu nombreuse et agricole, qui, sous différents noms, s'étend de la Baie de Sainte-Lucie presque jusqu'aux bords du Zambèze.

L'émigration par mer a été poursuivie avec quelque régularité de Delagoa Baie à Natal pendant les dernières années, les indigènes payant ordinairement leur passage avec de l'argent que leur avancement leurs parents qui reviennent du Natal.

Mais depuis quelque temps un ordre a été publié "mettant en vigueur le système Portugais des passeports." Cela entraînait le paiement de droits de législation s'élevant à 15s. en faveur du Gouverneur de Lourenço Marques, qui était obligé de certifier que chaque émigrant se trouvait muni au moment du départ des papiers nécessaires.

Quoique encore très peu étendue, cette émigration par mer est entravée maintenant par les autorités du pays. D'après mes observations personnelles, pendant trois visites à la Baie de Lagoa, il n'y a aucun péril, ni le moindre soupçon de trafic dans ce système, et j'ose croire que justice serait rendue aux tribus environnantes et qu'une grande impulsion serait donnée aux intérêts des planteurs de la Colonie Britannique (de Natal) :

1. En simplifiant, d'accord avec les autorités Portugaises, la question des passeports et les formalités à remplir par les émigrants au moment de leur départ et de leur retour ;

2. En nommant un protecteur de l'émigration à Natal et un autre à la Baie Delagoa pour surveiller l'émigration, en évitant que les émigrants soient entassés dans les navires, qu'ils manquent de nourriture, et qu'ils ne soient pas engagés librement.

Dans une conversation avec M. Amaral, le Gouverneur-Général de Mozambique, son Excellence me fit comprendre que des difficultés s'étaient élevées à la suite de rapports parvenus en Europe d'après lesquels les indigènes étaient engagés par force à émigrer, et le Gouverneur de Lourenço Marques recevait une certaine somme par tête d'émigrant engagé de cette manière. En vertu de ces bruits il avait fait suspendre l'émigration pour quelque temps, et fait personnellement une visite d'inspection à la baie, à la suite de laquelle il avait été très satisfait de voir que le Gouverneur ne recevait que les 15s. par tête pour les droits de passeport, et qu'on n'exerçait sur les indigènes aucune espèce de pression pour en obtenir des engagements. Je me suis permis d'assurer à son Excellence comme étant ma conviction inébranlable, que le désir des indigènes de chercher du travail à Port Natal était si grand, que si on ne leur permettait pas le voyage par mer, ils le feraient par terre malgré les difficultés et les dangers, pour se placer dans la Colonie ; et je lui ai exposé les faits que je tenais de mon observation personnelle.

Son Excellence m'a prié alors d'assurer le Gouverneur de Natal qu'en établissant une surveillance dans le port de Lourenço Marques, le Gouvernement Portugais aiderait par tous les moyens le Gouvernement Anglais, mais de manière que l'émigration fût établie à l'avenir sur une base solide.

*Consulat de Sa Majesté Britannique à Zanzibar,
le 20 Mars, 1873.*

(Signé)

FREDERIC ELTON.

*Certificat constatant que le Roi-disant Prince Slangella était un cuisinier du Fort Portugais.—
4 Mars, 1874.*

(Traduction.)

Nous Soussignés, anciens fonctionnaires et négociants de la Province de Mozambique, nous certifions, par la connaissance que nous avons de la Baie de Lourenço Marques, qu'il y est de notoriété publique que non-seulement les deux régules du *Mapouto* et du *Tembe* n'ont pas, en 1823, fait aux Anglais les cessions de territoires que le Capitaine Owen a prétendu leur attribuer, mais encore que ce même capitaine a été victime d'une mystification de la part d'un nègre mauvais plaisant, cuisinier dans le fort Portugais, qui, dans le but de se faire donner de l'eau-de-vie et quelques livres de tabac, l'a complètement berné en se faisant passer pour un Prince nommé *Slangella* représentant du régule du *Tembe*.

Lisbonne, 4 Mars, 1874.¹

(Signé)

FRANCISCO DA COSTA MENDES, *Ancien Secrétaire-Général du Gouvernement de Mozambique.*

JOAQUIM DA CUNHA TRAVASSOS, *Ancien Secrétaire et Trésorier du Comité des Finances de Mozambique.*

EDUARDO DA CUNHA SEIXAS, *Ancien Secrétaire du Comité des Finances de Mozambique.*

IGNACIO JOSE DE PAIVA RAPOSÓ, *Ancien Négociant à Lourenço Marques.*

¹ "Correspondence respecting Sir Bartle Frere's Mission to the East Coast of Africa, 1872-73," presented to both Houses of Parliament. London, 1873, p. 77, et suivantes.



CARTE
de la
CÔTE D'AFRIQUE
par
M de Mesquita Perestrello
1573

CARTOGRAPHIE CRITIQUE

DE

L'AFRIQUE

EN

1749

D'APRES

KIEPERT



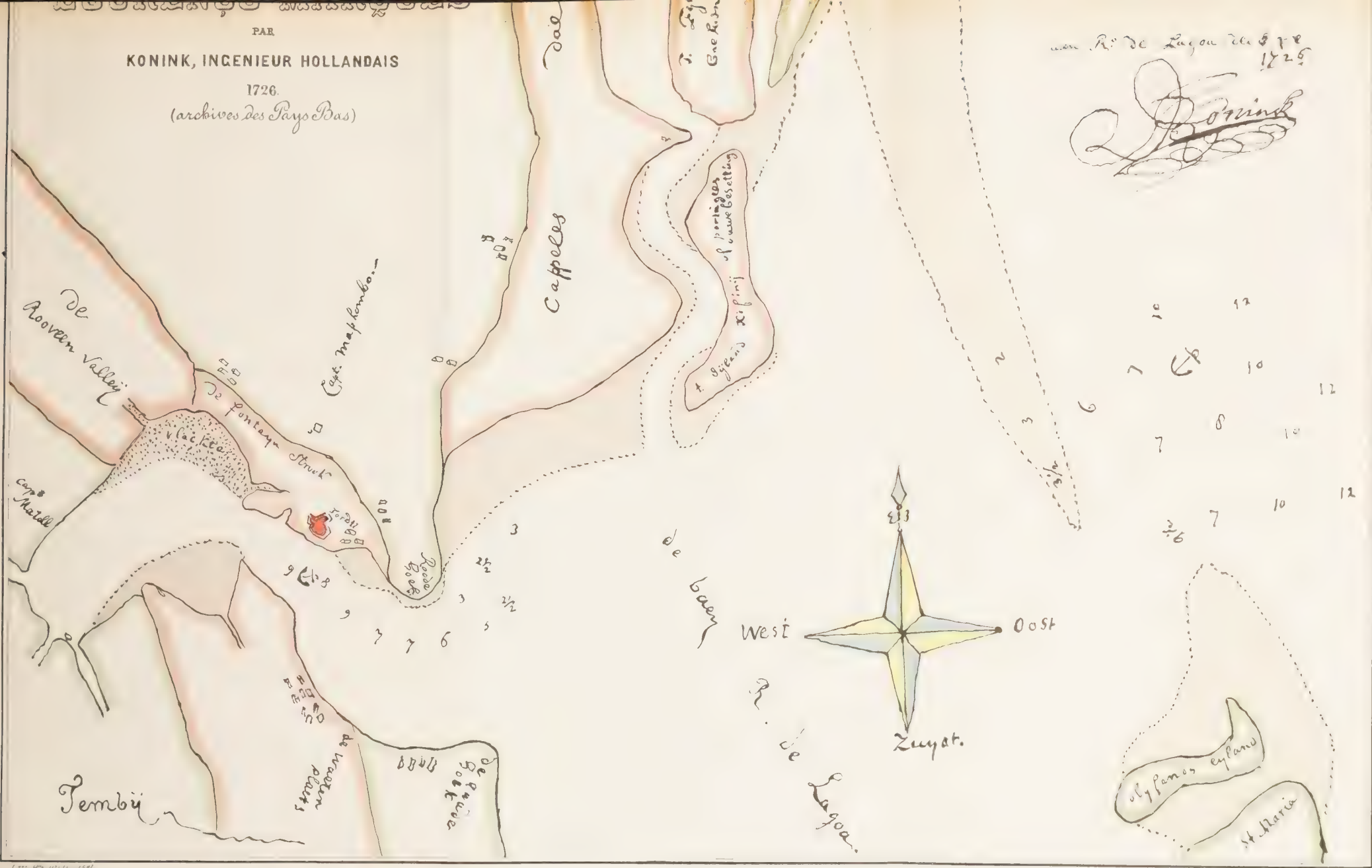
- 1-10. D'après la carte de Dapper 1678
 11 - Cavazzi, Carli et Morollo 1634-82
 12 - Poncet 1698
 13 - Brué 1697-1720
 14 - Kolbe 1701-13.
 15 - {Compagnon 1716
 {Levens, Pelayo, Legrand 1730-32.
 16 - Stewart & Windhus 1721
 17 - Shaw 1722-27
 18 - Snellgrave 1720.
 19 - Sibbs 1723, Moore 1738.
 20 - Des Marchais 1725-27
 21 - Pecoche et Norden 1737.

- 22 - {Explorations portugaises
 {du Cap à la base de
 {Lourranço Marques

1352
 1354
 1388
 1393
 1623
 1647

PAR
 KONINK, INGENIEUR HOLLANDAIS
 1726.
 (archives des Pays Bas)

aan R. de Lagoa de S. Maria
 1726
Konink





Ligne de Chemin de Fer projetée entre Lourenço Marques et la Capitale du Trânsvaal.

Fac-simile de la Carte de la Baie de Lourenço Marques par Konink, Ingénieur Hollandais : 1726.

Cartographie Critique de l'Afrique en 1749, d'après Kiepert.

Carte de la Côte d'Afrique, par M. de Mesquita Perestrello : 1575.

No. 7.

Lord Lytton to Senhor Corvo.

Cintra, June 14, 1875.

IN accordance with instructions received from Her Britannic Majesty's Principal Secretary of State for Foreign Affairs relative to those territories situated on the South-East Coast of Africa over which Her Britannic Majesty has hitherto exercised rights of sovereignty disputed by the Government of His Most Faithful Majesty, and with reference, more especially, to the decision not yet officially declared of the President of the French Republic, to whose arbitration the two Governments have agreed to refer their adverse claims to the possession of the above-mentioned territories, the Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has now the honour to submit to His Most Faithful Majesty's Minister for Foreign Affairs, for the friendly consideration of His Most Faithful Majesty's Government, a proposal on the part of Her Britannic Majesty's Government that Great Britain and Portugal should enter into a mutual agreement to the effect that, whichever way the Award of the Arbitrator may be given, as regards the right of sovereignty over the above-mentioned territories, the Power in whose favour the Award is made will not entertain any proposal for the acquisition of the said territory by any other Power, until the defeated claimant shall have had an opportunity of making to the successful claimant a reasonable offer for the acquisition of that territory, either by purchase or for some other consideration.

In inviting the assent of the Portuguese Government to the proposal thus made to it on behalf of the British Government, the Undersigned is anxious to assure His Most Faithful Majesty's Minister for Foreign Affairs, that when the Government of Her Britannic Majesty agreed to refer to the arbitration of the President of the French Republic the Portuguese claims to a territory of which Great Britain had long been in practical possession, the motive of Her Majesty's Government in so doing was a sincere desire to remove from the old and cordial relations between Great Britain and Portugal a long-standing ground of contention as to the sovereignty of a territory so closely neighbouring the Colonial possessions of the two Powers in Southern Africa. But the possession of that territory by any third Power, to whom the surrender of it was not contemplated by the British Government when the British Government agreed to submit to arbitration the disputed title on which it had hitherto claimed and held the territory in question, would scarcely be calculated to inspire on the part of Her Majesty's Government those sentiments of confidence and security with which they are fully prepared to accept the Award of the Arbitrator, if that Award be favourable to the claims of Portugal.

The Undersigned therefore trusts that, in the same friendly spirit which in regard to this and all other questions affecting their several interests has so long and so happily animated the relations between Great Britain and Portugal, the Government of His Most Faithful Majesty will be readily disposed to entertain the proposal hereby submitted to them by the Undersigned, who avails himself of the present opportunity to renew, &c.

(Signed) LYTTON.

Senhor Corvo to Lord Lytton.

*Secretaria d'Estado dos Negocios Estrangeiros,
em 17 de Junho, 1875.*

O ABAIXO-ASSIGNADO, Ministro e Secretario d'Estado dos Negocios Estrangeiros de Sua Magestade Fidelissima, teve a honra de receber a nota que, em 14 do corrente, lhe dirigio Lord Lytton, Enviado Extraordinario e Ministro Plenipotenciario de Sua Magestade Britannica, relativa aos territorios situados na Costa Oriental d'Africa, cuja posse era contestada pelos dous Governos de Portugal e da Gram Bretanha; contestação que de commun accordo foi submettida ao juizo arbitral do Presidente da Republica Franceza. Manifestando as apprehensões do seu Governo ácerca da eventualidade de virem aquelles territorios a ser cedidos a uma terceira Potencia, observa Lord Lytton que, ao concordar o Governo Britannico em confiar á arbitragem do Presidente da Republica Franceza a pendencia existente ha longos annos entre aquelle Governo e o Governo Portuguez, o animava o sincero desejo de affastar das antigas e cordeaes relações de Portugal e Inglaterra um motivo de dissidencia sobre a soberania de um territorio que tão de perto se avizinha das possessões coloniaes dos dous paizes; e accrescenta que a posse d'aquelle territorio por uma terceira Potencia difficilmente poderia inspirar ao Governo de Sua Magestade Britannica os sentimentos de confiança e segurança com que está disposto a receber a Sentença do Arbitro em favor de Portugal.

Agradecendo o Lord Lytton as seguranças que sua Excellencia lhe dá na sua nota dos sentimentos de cordialidade e confiança do Governo de Sua Magestade Britannica, sentimentos a que o Governo de Sua Magestade Fidelissima sinceramente corresponde, o Abaixo-assignado tem a maior satisfação em dar a sua Excellencia a mais completa certeza da resolução em que esta o Governo Portuguez de não ceder o territorio cuja posse lhe for assegurada pela arbitragem do Marechal MacMahon, a uma terceira Potencia, e de guardar n'esta como em todas as outras occasiões a mais perfeita lealdade para com o Governo Britannico, em cuja amizade e lealdade o Governo de Sua Magestade Fidelissima confia inteiramente.

O Abaixo-assignado, &c.

(Assignado)

JOAO DE ANDRADE CORVO.

(Translation.)

Foreign Department, Lisbon, June 17, 1875.

THE Undersigned, His Most Faithful Majesty's Minister and Secretary of State for Foreign Affairs, had the honour to receive the note which was addressed to him on the 14th instant by Lord Lytton, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, relative to the territories situated on the East Coast of Africa, the possession of which was disputed by the two Governments of Portugal and of Great Britain, a dispute which was, by mutual assent, referred to the arbitration of the President of the French Republic.

While expressing the apprehensions of his Government as to the eventuality of the territories in question being ceded to a third Power, Lord Lytton remarks that, when the British Government agreed to refer to the arbitration of the President of the French Republic the question which had for so many years been pending between the said Government and that of Portugal, they were animated by the sincere desire of removing from the old and cordial relations between Portugal and England a ground of contention as to right of sovereignty over a territory which was in the immediate neighbourhood of the Colonial possessions of the two countries; and he adds that the possession of that territory by any third Power could hardly inspire to Her Britannic Majesty's Government those sentiments of confidence and security with which they are prepared to accept the Award of the Arbitrator in favour of Portugal.

In thanking Lord Lytton for the assurances which his Excellency gives him in his note as to the sentiments of cordiality and confidence entertained by Her Britannic Majesty's Government, which sentiments are sincerely reciprocated by His Most Faithful Majesty's Government, the Undersigned has the greatest pleasure in giving his Excellency the fullest assurance as to the determination of the Portuguese Government of not ceding to any third Power the territory, the possession of which may be secured for it in virtue of the arbitration of Marshal MacMahon, and of

observing, both on this and on all other occasions, a perfect loyalty towards the British Government, in whose friendship and loyalty the Government of His Most Faithful Majesty entirely confides.

The Undersigned, &c.
(Signed) JOAO DE ANDRADE CORVO.

No. 9.

Lord Lytton to Senhor Corvo.

Cintra, June 24, 1875.

IN acknowledging the receipt of the obliging reply which the Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary has had the honour to receive, under date of the 17th instant, from His Most Faithful Majesty's Minister for Foreign Affairs to the note addressed by the Undersigned, on the 14th instant, to his Excellency, inviting the Portuguese Government to enter into an agreement with the Government of Her Britannic Majesty not to cede or sell to any third Power the territories on the South-East Coast of Africa awarded to Portugal by the decision of the President of the French Republic, to whose arbitration the adverse claims of the two Governments to the territories in question were by mutual consent submitted, without having previously given to Her Britannic Majesty's Government the opportunity of making a reasonable offer for the purchase or acquisition by other arrangements satisfactory to Portugal of the territory thus awarded, the Undersigned has much pleasure in expressing to His Most Faithful Majesty's Minister for Foreign Affairs the great satisfaction with which the assurance contained in his Excellency's above-mentioned note of the 17th instant has been received by Her Britannic Majesty's Government.

Requesting His Most Faithful Majesty's Minister for Foreign Affairs to accept his own thanks and those of Her Britannic Majesty's Government for this prompt and satisfactory answer to his communication of the 14th instant, the Undersigned avails himself, &c.

(Signed) LYTTON.

No. 10.

Lord Lyons to the Earl of Derby.—(Received July 29.)

My Lord,

Paris, July 28, 1875.

I RECEIVED last evening from the French Minister for Foreign Affairs the sentence of the President of the Republic in the Delagoa Bay arbitration case. I inclose a copy of it herewith, and I shall send the original document to your Lordship by the first through messenger.

I have also the honour to inclose herewith a copy of the note with which the sentence was forwarded to me by the French Minister.

Your Lordship has been for some time aware that the sentence is in favour of Portugal. The following are the terms of it :—

“ Nous avons jugé et décidé que les prétentions du Gouvernement de Sa Majesté Très Fidèle sur les territoires de Tembe et de Maputo, sur la presqu'île d'Inyack, sur les îles d'Inyack et des Eléphants, son dûment prouvées et établies.”

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 10.

Decision of the President of the French Republic.

NOUS, Marie Edme Patrice Maurice de MacMahon, Duc de Magenta, Maréchal de France, Président de la République Française, statuant en vertu des pouvoirs qui ont été conférés au Président de la République Française aux termes du Protocole signé

à Lisbonne, le 15 Septembre, 1872, par lequel le Gouvernement de Sa Majesté la Reine de la Grande Bretagne et d'Irlande et celui de Sa Majesté le Roi de Portugal sont convenus de déférer au Président de la République Française, pour être réglé par lui définitivement et sans appel, le litige qui est pendant entre eux depuis l'année 1823, au sujet de la possession des territoires de Tembe et de Maputo et des Iles d'Inyack et des Eléphants, situés sur la Baie de Delagoa ou Lorenzo Marquez, à la Côte Orientale d'Afrique ;

Vu les mémoires remis à l'arbitre par les Représentants des deux Parties, le 15 Septembre, 1873, et les contre-mémoires également remis par eux, les 14 et 15 Septembre, 1874 ;

Vu les lettres de son Excellence M. l'Ambassadeur d'Angleterre et de M. le Ministre de Portugal à Paris, en date du 8 Février, 1875 ;

La Commission instituée, le 10 Mars, 1873, à l'effet d'étudier les pièces et documents respectivement produits, nous ayant fait part du résultat de son examen ;

Attendu que le litige, tel que l'objet en a été déterminé par les mémoires présentés à l'arbitre et, en dernier lieu, par les lettres ci-dessus citées des Représentants à Paris des deux Parties, porte sur le droit aux territoires suivants, savoir :

1. Le territoire de Tembe, borné au nord par le Fleuve Espirito Santo ou English River et par la Rivière Lorenzo Marquez ou Dundas, à l'ouest par les Monts Lebombo, au sud et à l'est par le Fleuve Maputo et de l'embouchure de ce fleuve jusqu'à celle de l'Espirito Santo par le rivage de la Baie de Delagoa ou Lorenzo Marquez ;

2. Le territoire de Maputo, dans lequel sont comprises la presqu'île et l'île d'Inyack, ainsi que l'île des Eléphants, et qui est borné au nord par le rivage de la baie, à l'ouest par le Fleuve Maputo, de son embouchure jusqu'au parallèle de 26° 30' de latitude australe, au sud par ce même parallèle et à l'est par la mer ;

Attendu que la Baie de Delagoa ou Lorenzo Marquez a été découverte au seizième siècle par les navigateurs Portugais et qu'au dix-septième et dix-huitième, le Portugal a occupé divers points sur la côte nord de cette baie et à l'île d'Inyack dont l'îlot des Eléphants est une dépendance ;

Attendu que, depuis la découverte, le Portugal a, en tout temps, revendiqué des droits de souveraineté sur la totalité de la baie et des territoires riverains, ainsi que le droit exclusif d'y faire le commerce, que de plus, il a appuyé à main armée cette revendication contre les Hollandais, vers 1732, et contre les Autrichiens, en 1781 ;

Attendu que les actes, par lesquels le Portugal a appuyé ses prétentions n'ont soulevé aucune réclamation de la part du Gouvernement des Provinces Unies, qu'en 1782 ces prétentions ont été tacitement acceptées par l'Autriche, à la suite d'explications diplomatiques échangées entre cette Puissance et le Portugal ;

Attendu qu'en 1817, l'Angleterre elle-même n'a pas contesté le droit du Portugal, lorsqu'elle a conclu avec le Gouvernement de Sa Majesté Très-Fidèle la Convention du 28 Juillet pour la répression de la traite ; qu'en effet, l'Article deuxième de cette Convention doit être interprété en ce sens qu'il désigne comme faisant partie des possessions de la Couronne de Portugal la totalité de la baie, à laquelle s'applique indifféremment l'une ou l'autre des dénominations de Delagoa ou de Lorenzo Marquez ;

Attendu qu'en 1822, le Gouvernement de Sa Majesté Britannique, lors qu'il chargea le Capitaine Owen de la reconnaissance hydrographique de la Baie de Delagoa et des rivières qui y ont leur embouchure, l'avait recommandé aux bons offices du Gouvernement Portugais ;

Attendu que si l'affaiblissement accidentel de l'autorité Portugaise dans ces parages a pu, en 1823, induire en erreur le Capitaine Owen et lui faire considérer de bonne foi comme réellement indépendants de la Couronne de Portugal les chefs indigènes des territoires aujourd'hui contestés, les actes par lui conclus avec ces chefs n'en étaient pas moins contraires aux droits du Portugal ;

Attendu que, presque aussitôt après le départ des bâtiments Anglais, les chefs indigènes de Tembe et de Maputo ont de nouveau reconnu leur dépendance vis-à-vis des autorités Portugaises, attestant ainsi eux-mêmes qu'ils n'avaient pas eu la capacité de contracter ;

Attendu que les Conventions signées par le Capitaine Owen et les Chefs indigènes du Tembe et du Maputo, alors même qu'elles auraient été passées entre parties aptes à contracter, seraient aujourd'hui sans effet, l'acte relatif au Tembe stipulant des conditions essentielles qui n'ont pas reçu d'exécution, et les actes concernant le Maputo, conclus pour des périodes de temps déterminées, n'ayant point été renouvelés après l'expiration de ces délais ;

Par ces motifs nous avons jugé et décidé que les prétentions du Gouvernement de

Sa Majesté Très Fidèle sur les territoires de Tembe et de Maputo, sur la presqu'île d'Inyack, sur les îles d'Inyack et des Eléphants, sont dûment prouvées et établies.

Versailles, le 24 Juillet, 1875.

(Signé)

M^{al}. DE MACMAHON, Duc de Magenta.

Inclosure 2 in No. 10.

The Duc Decazes to Lord Lyons.

M. l'Ambassadeur,

Versailles, le 27 Juillet, 1875.

LA Commission chargée d'étudier les documents présentés par le Gouvernement de Sa Majesté la Reine d'Angleterre et celui de Sa Majesté le Roi de Portugal à l'appui de leurs prétentions respectives sur les territoires contestés dans la Baie de Delagoa ayant terminé ses travaux, M. le Président de la République a donné l'ordre qu'il lui en fût immédiatement rendu compte et après avoir examiné avec elle les Mémoires et éclaircissements supplémentaires produits par les deux Cabinets intéressés, il a arrêté les termes de la sentence que l'accord des deux Cours l'avait appelé à émettre. J'ai l'honneur de vous envoyer ci-joint une expédition. J'adresse simultanément à M. le Ministre de Portugal celle qui est destinée à son Gouvernement. Une troisième expédition revêtue comme les deux autres de la signature de M. le Président de la République sera conservée au dépôt des Archives du Ministère des Affaires Etrangères. Il me reste, en vous faisant cette communication, à vous exprimer de sincères remerciements pour le témoignage de confiance que le Gouvernement Anglais a bien voulu donner à la France lorsqu'il a eu à s'entendre avec le Portugal sur le choix de l'arbitre auquel le jugement de leur contestation allait être déferé, et je dois ajouter qu'en accomplissant la tâche qui l'obligeait à prononcer entre deux nations dont l'amitié et les sympathies lui sont si chères, le Président de la République a été encouragé et soutenu surtout par la pensée qu'il contribuait à faire disparaître une difficulté qui les divisait depuis tant d'années.

Agréez, &c.

(Signé) DECAZES.

No. 11.

Lord Lyons to the Earl of Derby.—(Received August 1.)

My Lord,

Paris, July 31, 1875.

WITH my despatch of the 28th instant, I transmitted to your Lordship copies of the sentence of the President of the French Republic, in the Delagoa Bay Arbitration Case, and of a note with which it had been sent to me by the French Minister for Foreign Affairs.

I have the honour to forward the sentence, in original, to your Lordship, with the present despatch, which will be entrusted to the Queen's Messenger, Captain Ball, who goes on to London to-night with despatches which he has brought from Constantinople.

I have, &c.

(Signed) LYONS.

No. 12.

The Earl of Derby to Lord Lyons.

My Lord,

Foreign Office, August 17, 1875.

I HAVE received your Excellency's despatch of the 28th ultimo, in which you inclose copy of a note from the French Minister for Foreign Affairs, forwarding to you a signed copy of the Award of the French Government in the Delagoa Bay Question; and I have also received your Excellency's despatch No. 649 of the 31st ultimo, inclosing the document in question.

I have to request that your Excellency will convey to the Duc Decazes the thanks of Her Majesty's Government for the courtesy shown by his Excellency the President

of the French Republic in undertaking the office of Arbiter in this complicated question; and also for the careful manner in which the investigation has been conducted. You will add, that Her Majesty's Government fully and loyally accept his Excellency's decision, and that orders will be at once given to Her Majesty's naval and Colonial authorities in South Africa to acknowledge the sovereignty of Portugal over the territories declared by his Excellency's Award to belong to the Crown of His Most Faithful Majesty.

I am, &c.
(Signed) DERBY.

No. 13.

The Earl of Derby to Lord Lytton.

My Lord,

Foreign Office, August 17, 1875.

I TRANSMIT to you herewith, for your information, copy of a despatch from Her Majesty's Ambassador at Paris,* inclosing copy of the Award of the President of the French Republic on the question at issue between Great Britain and Portugal as to the right of sovereignty over certain territories on the South-East Coast of Africa.

You will see that the Award of his Excellency the President is to the effect that the claims of the Government of His Most Faithful Majesty over the territories of Tembe, and of Maputo, over the Peninsula of Inyack, and over the Islands of Inyack and Elephant, are duly proved and established.

I also inclose a copy of a despatch I have addressed to Lord Lyons,† in reply, instructing him to express the thanks of Her Majesty's Government for the good offices rendered by his Excellency the President in the matter.

You will lose no time in assuring the Portuguese Government that Her Majesty's Government fully and loyally accept the decision of the Arbiter; and that orders will at once be sent to Her Majesty's Naval and Colonial Authorities in South Africa to acknowledge the Sovereignty of Portugal over the Territories declared by his Excellency's Award to belong to the Crown of His Most Faithful Majesty.

You will add that, while Her Majesty's Government cannot but regret that the decision of the Arbiter is adverse to the claims of Great Britain—claims which Her Majesty's Government have only been induced to support through an honest conviction that they were well founded—it is nevertheless a satisfaction to them to feel that the settlement of the question, by removing a long-standing cause of difference between Great Britain and Portugal, will tend to strengthen still more the friendly feelings which have for so many years existed between the two countries.

I am, &c.
(Signed) DERBY.

No. 14.

Lord Tenterden to the Secretary to the Admiralty.

Sir,

Foreign Office, August 17, 1875.

THE Lords of the Admiralty are aware that a difference has for many years existed between Great Britain and Portugal as to the right of Sovereignty over certain territories on the South-East Coast of Africa; and that, after a lengthened correspondence, the two countries agreed to submit the question of the arbitration of his Excellency the President of the French Republic.

I am now directed by the Earl of Derby to transmit to you, to be laid before their Lordships, copy of a despatch from Her Majesty's Ambassador at Paris,* inclosing copy of the Award of the President, which is to the effect that the claims of Portugal over the territories of Tembe and Maputo, over the Peninsula of Inyack, and over the Islands of Inyack and Elephant, are duly proved and established.

Her Majesty's Government are of course bound fully and loyally to accept this decision, and I am, therefore, to request that you will move the Lords of the Admiralty

to instruct Her Majesty's naval authorities on the South-East Coast of Africa to recognize the sovereignty of Portugal over the territories declared by the Award of the Arbitrator to belong to the Crown of His Most Faithful Majesty.

A similar communication has been made to Her Majesty's Secretary of State for the Colonies.

I am, &c.
(Signed) TENTERDEN.

SPAIN. No. 2 (1875).

CORRESPONDENCE

RESPECTING THE

RECOGNITION OF PRINCE ALFONSO

AS

KING OF SPAIN.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

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Correspondence respecting the Recognition of Prince Alfonso as King of Spain.

No. 1.

The Earl of Derby to Mr. Layard.

Sir,

Foreign Office, January 5, 1875.

I HAVE received your telegraphic despatch of the 31st ultimo, reporting the formation of the Alfonsist Ministry, and that you intend to act in your relations with them in accordance with the instructions you received from Earl Granville on the occasion of the abdication of Prince Amadeo.

In reply I have to acquaint you that Her Majesty's Government approve the course you propose to take.

I am, &c.
(Signed) DERBY.

No. 2.

The Earl of Derby to Mr. Layard.

(Extract.)

Foreign Office, January 26, 1875.

IN the instructions with which you were furnished on the 5th instant, I confined myself to authorising you to enter into officious relations with the newly constituted Government, and I do not yet feel in a position to instruct you to proceed further in the direction of a formal recognition.

At the same time, while desiring that you should maintain in this respect an attitude of reserve, such as the state of affairs in Spain still requires, Her Majesty's Government are anxious that His Majesty and the Spanish Government should understand that this country is actuated towards Spain by the warmest sentiments of goodwill. The ties which united the two nations in the events of past history cannot, Her Majesty's Government feel confident, be forgotten by either.

It would, therefore, be with unalloyed satisfaction that Her Majesty's Government would welcome the firm establishment of an enlightened, tolerant, and Constitutional Monarchy in Spain, and they hope that His Majesty and his advisers may so take advantage of the present occasion as to realize this object, and re-establish civil order and good administration throughout the Kingdom and its Colonial dependencies.

Her Majesty's Government would wish you to convey this expression of their sentiments to the Government of His Majesty in the manner which may appear to you most suitable.

The policy of Her Majesty's Government is one of non-interference in the internal affairs of foreign States, and they have no intention of departing from it. They cannot, however, but think that the King and his Government may derive support from being acquainted with the view taken of the situation in Spain by the Government of a friendly and disinterested country, and they, therefore, consider that you should lose no fair and becoming opportunity of impressing upon the Spanish Government the vital importance to the King and the people of Spain of maintaining unimpaired the principles of religious freedom.

No. 3.

Sir A. Paget to the Earl of Derby.—(Received January 29.)

My Lord,

Rome, January 26, 1875.

ON leaving Signor Visconti Venosta this morning I met in the anteroom Señor Rances, Marquis of Casa Laiglesias, Minister of the Spanish Republic to this Court, and who has been acting in the same capacity since the proclamation of the Prince of Asturias, who informed me that he had come to announce to Signor Visconti Venosta that he had this morning received a letter for His Majesty the King of Italy from King Alfonso, notifying His Majesty's accession to the throne of Spain.

I have, &c.

(Signed) A. PAGET.

No. 4.

Lord A. Loftus to the Earl of Derby.—(Received February 1.)

My Lord,

St. Petersburg, January 27, 1875.

PRINCE GORTCHIAKOW informed me yesterday that on the receipt of the official announcement notifying the accession of King Alfonso to the Throne of Spain (which was on the road, and was daily expected) the recognition by the Emperor would take place.

I have, &c.

(Signed) AUGUSTUS LOFTUS.

No. 5.

Lord Odo Russell to the Earl of Derby.—(Received February 1.)

My Lord,

Berlin, January 26, 1875.

THE Spanish Minister, Count Rascon, had the honour to deliver to the Emperor this day, at a private audience, a letter from King Alfonso, announcing his accession to the throne of Spain.

The Emperor was graciously pleased to say that an early acknowledgment would be sent to the King, together with letters of credence to Count Hatzfeldt, accrediting him as Envoy Extraordinary and Minister Plenipotentiary to His Majesty.

I have, &c.

(Signed) ODO RUSSELL.

No. 6.

Sir A. Buchanan to the Earl of Derby.—(Received February 1.)

My Lord,

Vienna, January 28, 1875.

M. DE MAZO, lately accredited as Spanish Minister to this Court by the Government of Marshal Serrano, was received yesterday at a private audience by the Emperor, to deliver a letter to His Majesty from King Alfonso, announcing his accession to the throne.

Letters of credence will, in consequence, be forwarded without further delay to the Austrian Minister at Madrid, accrediting him as the Emperor's Envoy Extraordinary to His Catholic Majesty.

I have, &c.

(Signed) ANDREW BUCHANAN.

No. 7.

Sir C. Wyke to the Earl of Derby.—(Received February 12.)

My Lord,

Copenhagen, February 9, 1875.

DON ALFONSO DE BOURBON having by an autograph letter announced to the King of Denmark his accession to the Spanish throne, was replied to yesterday in similar form by the King, who, following the example of most of the other European Sovereigns, has thus acknowledged and recognized that Prince as the legitimate King of Spain.

I have, &c.

(Signed) CHARLES LENNOX WYKE.

No. 8.

Mr. Morier to the Earl of Derby.—(Received February 14.)

My Lord,

Munich, February 4, 1875.

M. MAZO, the Spanish Minister at Vienna, who is also accredited here, has come to Munich, and been received at an audience by the King for the purpose of notifying to His Majesty the accession of King Alfonso to the throne of Spain.

I have, &c.

(Signed) R. B. D. MORIER.

No. 9.

Mr. Layard to the Earl of Derby.—(Received February 14.)

(Extract.)

Madrid, February 3, 1875.

I CALLED upon Señor Canovas del Castillo yesterday, and communicated to his Excellency the substance of your Lordship's despatch of the 26th ultimo. As your Lordship had left it to me to convey this expression of the sentiments of Her Majesty's Government to that of the King in the manner which might appear to me most suitable, I thought it best to do so to the President of the Ministry-Regent. In order that there should be no misinterpretation, or misunderstanding, of your Lordship's words, I gave Señor Canovas a Memorandum *pro memoriâ* (copy inclosed), of what I had said to him. His Excellency begged me to assure your Lordship that the warm and friendly interest shown by your Lordship and Her Majesty's Government in His Majesty and the Spanish nation would be greatly appreciated by the King and his Government. He trusted that the time was not far distant when I should be authorized to enter into more intimate and formal relations with the Spanish Ministry. "The friendship of England," he said, "was dear and precious to Spain," and he cordially assented to your Lordship's observation "that the two nations could never forget the ties which had so long united them in the events of past history; nor could Spain," he added, "be otherwise than ever grateful for the many proofs she had received of that friendship." His Excellency concluded by repeating to me the assurances that he had previously given me, that it was his firm intention to maintain unimpaired the principles of religious freedom.

Inclosure in No. 9.

Memorandum.

HER Majesty's Government has instructed me to state to his Excellency Señor Canovas del Castillo that England is actuated towards Spain by the warmest sentiments of good-will, and that the ties which united the two nations in the events of past history cannot, Her Majesty's Government feel confident, be forgotten by either.

It would, therefore, be with unalloyed satisfaction that Her Majesty Government would welcome the firm establishment of an enlightened, tolerant, and Constitutional Monarchy in Spain, and they hope that His Majesty the King and his advisers may so

take advantage of the present occasion as to realise this object and re-establish civil order and good administration throughout the Kingdom and its Colonial dependencies.

The policy of Her Majesty's Government is one of non-interference in the internal affairs of foreign States, and they have no intention of departing from it. But they cannot but consider it entirely consistent with the position of a truly friendly and disinterested Power to impress upon the Spanish Government the vital importance to the King and the people of Spain of maintaining unimpaired the principles of religious freedom.

February 2, 1875.

No. 10.

The Earl of Derby to Mr. Layard.

Sir, *Foreign Office, February 15, 1875.*
I HAVE received and laid before the Queen your despatch of the 3rd instant, and I have to state to you in reply that Her Majesty's Government approve your having communicated to Señor Canovas del Castillo the substance of my despatch of the 26th ultimo, by which you were informed of the sentiments entertained by Her Majesty's Government towards the Government of Don Alfonso.

I am, &c.
(Signed) DERBY.

No. 11.

The Earl of Derby to Mr. Layard.

Sir, *Foreign Office, February 15, 1875.*
I TRANSMIT to you a letter which the Queen has been pleased to address to the King of Spain accrediting you to His Majesty in the character of Her Envoy Extraordinary and Minister Plenipotentiary, and I am to desire that you will deliver the same in the usual form, accompanied by suitable compliments in Her Majesty's name upon His accession to the throne.

A copy of your letter of credence is also inclosed.

I am, &c.
(Signed) DERBY.

No. 12.

Circular addressed to Her Majesty's Ministers at European Courts.

My Lord,

Sir,

Foreign Office, February 15, 1875.

I HAVE to inform you that Her Majesty's credentials will this day be forwarded to Mr. Austen Henry Layard, accrediting him Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty King Alfonso XII.

I am, &c.
(Signed) DERBY.

No. 13.

Mr. Fenton to the Earl of Derby.—(Received February 17.)

(Extract.)

The Hague, February 15, 1875.

WITH reference to my despatch of the 3rd instant, I have the honour to inform your Lordship that I learn from the Netherlands Minister for Foreign Affairs that the King of the Netherlands has addressed a letter to King Alfonso, in reply to that lately received from him, acknowledging His Majesty as King of Spain.

No. 14.

The Earl of Derby to Mr. Layard.

Sir,

Foreign Office, February 20, 1875.

I HAVE received the Queen's commands to desire that, in presenting to the King of Spain the credentials with which you have been furnished, accrediting you to His Majesty, you will offer to him the Queen's sincere congratulations on his accession to the throne of Spain, and Her Majesty's warm wishes for his happiness and prosperity.

The Queen entertains the earnest hope that His Majesty's reign will be characterized by an enlightened, constitutional, and tolerant policy, such as may tend to promote the welfare of the country over which he has been called upon to preside.

I am, &c.

(Signed) DERBY.

No. 15.

Mr. Layard to the Earl of Derby.—(Received March 6.)

My Lord,

Madrid, February 27, 1875.

ACCOMPANIED by the members of Her Majesty's Legation, I had to-day the honour of being received by the King for the purpose of delivering Her Majesty's letter of congratulation on his accession to the throne, and the letter accrediting me as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to this Court, and I beg to transmit to your Lordship herewith copy of my address to His Majesty, as well as of his reply, with a translation thereof.

I have, &c.

(Signed) A. H. LAYARD.

Inclosure 1 in No. 15.

Mr. Layard's Address to the King of Spain.

Sir,

I HAVE the honour to deliver to your Majesty the answer of the Queen, my gracious Sovereign, to the letter of your Majesty, announcing your Majesty's accession to the throne, and at the same time a letter from Her Majesty, by which she is pleased to accredit me in the character of her Envoy Extraordinary and Minister Plenipotentiary.

I am specially commanded by Her Majesty to offer to your Majesty her sincere congratulations and her warm wishes for your Majesty's happiness and prosperity, and to express to your Majesty her hopes that your Majesty's reign will be marked by a constitutional, enlightened, and tolerant policy, such as may tend to promote the welfare of Spain.

It is the earnest desire of the Queen and her people that the friendly relations which have so long and so happily subsisted between Spain and England should be maintained and improved. I trust that, in my endeavours to contribute to this object, I shall deserve and obtain your Majesty's confidence and support.

Inclosure 2 in No. 15.

The King of Spain's Reply to Mr. Layard.

(Translation.)

M. le Ministre,

I RECEIVE with true pleasure the answer of your august Sovereign to the communication of my accession to the throne, and the letter in which she accredits you as her Envoy Extraordinary and Minister Plenipotentiary.

The felicitation which you are charged to present to me on the part of Her Britannic Majesty, and her hope that my efforts will be principally directed to promote the well-being of my country by the means best fitted to that end, are of great value to me.

I beg you, M. le Ministre, to transmit to Her Majesty the Queen my profound gratitude for her benevolent sentiments, which I have great pleasure in reciprocating by my fervent wishes for her constant happiness and for that of her people, and assure her that my desire and that of Spain to preserve and draw closer the relations of cordial friendship happily and long existing with England is not less lively.

I do not doubt that you will contribute to that laudable object with your zeal and distinguished qualities, and for that purpose you will always find in me the benevolent support for which you reasonably ("fundadamente") hope.

No. 16.

The Earl of Derby to Mr. Layard.

Sir,

Foreign Office, March 10, 1875.

I HAVE received and laid before the Queen your despatch of the 27th ultimo, in which you report your reception by the King of Spain, and your delivery to His Majesty of the Queen's letter of congratulation on his accession to the throne, and of the letter accrediting you as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of Spain.

I have to state to you that Her Majesty's Government approve your address to His Majesty the King on the occasion in question, copy of which is inclosed in your above-mentioned despatch.

I am, &c.
(Signed) DERBY.

SPAIN. No. 2 (1875).

CORRESPONDENCE respecting the Recognition of
Prince Alfonso as King of Spain.

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1875.*

LONDON :

PRINTED BY HARRISON AND SONS.

SPAIN. No. 1 (1875).

FURTHER CORRESPONDENCE

RESPECTING THE

CAPTURE OF THE “VIRGINIUS.”

(In continuation of “Spain No. 4: 1874.”)

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

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Further Correspondence respecting the Capture of the “ Virginius.”

(In continuation of “Spain No. 4: 1874.”)

No. 1.

The Earl of Derby to Mr. Macdonell.

Sir,

Foreign Office, August 13, 1874.

ON the 10th instant I received from you a telegram informing me that the Spanish Government had forwarded to you a project of a note, expressing their willingness to pay, as an advance, such sum as might be claimed by Her Majesty's Government for the relief of the families of the British subjects taken on board the “Virginius” and executed at Santiago de Cuba; but that while the American claims are still pending the Spanish Government do not wish to admit the principle involved in the matter.

I have now to instruct you to state to the Spanish Minister for Foreign Affairs that Her Majesty's Government accept the arrangement proposed by his Excellency, and you will add that Her Majesty's Government consider the following would be a fair amount for the Spanish Government to pay:—

To the family of each coloured man, of whom there were nine, 300*l.*, making 2,700*l.* :

To the family of each white man, of whom there were ten, 500*l.*, making 5,000*l.*

Total, 7,700*l.*

You will also state that, in any case where no near relations of one of the persons executed come forward to make a claim, or in case any alleged relatives fail to prove their claim within a reasonable time, the money paid on account of such claim shall be repaid to the Spanish Government.

The substance of the above instructions has been already sent to you by telegraph.

I inclose for your information a copy of a Memorandum showing the names of the British subjects in question, and the information regarding each of them in possession of this Office.

I am, &c.
(Signed) DERBY.

No. 2.

Mr. Macdonell to the Earl of Derby.—(Received August 23.)

(Extract.)

Madrid, August 19, 1874.

IN accordance with your Lordship's instructions, I addressed a note to the Minister of Foreign Affairs, copy of which I have the honour to inclose, informing his Excellency that Her Majesty's Government could admit of no further delay in the settlement of the claims arising out of the capture and subsequent execution of the British subjects on board the “Virginius.”

In delivering the above note to Señor Ulloa, I expressed the hope that he would consult with his colleagues as to the best mode of settling this question, which, under the circumstances specified in my note, admitted of no further postponement.

Señor Ulloa again assured me that the Spanish Government were most desirous to see this affair brought to a close so far as Her Majesty's Government were concerned, but that unfortunately it was not in the power of the Spanish Government to act as promptly as your Lordship desired; that, owing to the United States' Government having also an interest in this matter, the Spanish Government would find itself in an embarrassing

position, were it to establish a precedent by favouring the English claimants; but the different claims and counter-claims between the United States and Spain were now under consideration, and that if Her Majesty's Government would be good enough to postpone the settlement of their claims for a short time longer, he could give me the positive assurance that, as soon as the Council of State reassembled (at the end of September), the payment of the indemnity would immediately be effected.

I expressed great regret at not being able to comply with his Excellency's request; that your Lordship's instructions on the subject were definite, and that all I could do was to submit to your Lordship's favourable consideration any reasonable suggestion his Excellency might make; but that steps must be taken to satisfy the just demands of the families of the sufferers.

After some discussion, I agreed to submit to your Lordship the proposal, which Her Majesty's Government have since accepted, and the acceptance of which I have notified to the Spanish Government, viz., that a certain sum should be paid, under the name of an advance for the relief of the families of the victims, without prejudice to the principle involved; and I availed myself of that occasion to acquaint Señor Ulloa with the amount of the indemnity claimed.

On calling upon the Minister the following day, his Excellency said that he considered the sum demanded by Her Majesty's Government very large, and far more considerable than he had been led to anticipate.

I pointed out that it was far below the estimate of the Spanish Government, as applied to the families of those who fell at the hands of the Carlists.

However, I thought I might venture to make the following arrangement, which has since been accepted by the Spanish Government, viz., that the sum of 1,000*l.*, by which the Spanish Government seem desirous of reducing the claim, should be held by them as the balance to be paid on the final settlement of this question; by this means Her Majesty's Government will eventually receive payment in full of the total amount claimed.

Accordingly, Señor Ulloa has now addressed to me a note, informing me that orders have been given to the Ministry of Finance for the immediate payment to Her Majesty's Government in London, of the sum of 6,700*l.*, it being clearly understood that the balance of 1,000*l.* shall be paid when the question of the "Virginus" claims shall have been definitely settled by the Council of State.

In submitting the above arrangement to your Lordship, I trust that your Lordship will not be of opinion that I have gone too far in assuming the responsibility of accepting the modifications proposed by the Spanish Government.

Inclosure 1 in No. 2.

Mr. Macdonell to Señor Ulloa.

M. le Ministre,

Madrid, August 5, 1874.

HAVING reported to the Earl of Derby your Excellency's desire that Her Majesty's Government might defer, for the present, pressing for a settlement of the "Virginus" claims, I am instructed by his Lordship to remind your Excellency that many months have now elapsed since the execution of the British subjects taken on board the "Virginus," and that in several instances the families of the persons executed are in distress. The latter consideration will, I am convinced, have full weight with your Excellency, as well as with the Spanish Government.

Her Majesty's Government have desired me to add that, though they are most unwilling to add to the difficulties of the Spanish Government, yet that they cannot allow these claims to be postponed indefinitely, and I trust, therefore, that your Excellency will be able to give me a decided promise that the matter shall be settled by a fixed and not too distant date.

I avail, &c.
(Signed) H. G. MACDONELL.

Inclosure 2 in No. 2.

Señor Ulloa to Mr. Macdonell.

(Translation.)

Sir,

Madrid, August 14, 1874.

I HAVE received your note of the 5th instant, in which, by instructions from Lord Derby, you state to me that, many months having elapsed since the occurrence of the sad

events connected with the "Virginus," the families of the English persons captured on board of her and executed at Santiago de Cuba renew their requests to Her Majesty's Government to obtain some indemnity for the relief of their misfortune.

The British Government is aware of the reasons which have, up to this time, obliged the Spanish Government not to refuse to arrange, but to put off the arrangement of this indemnity with regard to the British subjects, but, as you very justly suppose in your note, the consideration of the present miserable state of the families of those unfortunate persons cannot but have an influence on the Spanish Government and move them not to wait for the moment when, in a definitive and formal manner, the said families may receive some sum of money.

To that end, the Executive Power of the Spanish Republic, without prejudging the essence of this matter, will have no objection to give orders for handing over a sum of money for distribution among the families of the British subjects captured on board the "Virginus" and executed at Santiago de Cuba, reserving the delivery of what may be necessary for the completion of the whole amount of the indemnity that may be agreed upon between the two Governments when the principal question may have been definitely settled in that sense.

You can, if you think fit, bring this proposal to the knowledge of Her Britannic Majesty's Government, inspired as it is by the strongest wish not to delay the sending of succour to the parties interested, without precipitating the official course indispensable for coming to a right decision in the present question.

I avail, &c.
(Signed) A. ULLOA.

Inclosure 3 in No. 2.

Mr. Macdonell to Señor Ulloa.

M. le Ministre,

Madrid, August 15, 1874.

I BEG to thank your Excellency for the ready acknowledgment of the communication I had the honour to address to you on the 5th instant, and I hasten to inform your Excellency in reply that I have been authorized by Her Majesty's Government to accept an advance on the sum which they deem due, as compensation, to the families of the British subjects captured on board the "Virginus" and subsequently shot at Santiago de Cuba.

This point having been settled, it now becomes my duty to acquaint your Excellency with the total amount claimed by Her Majesty's Government on behalf of those who suffered on that occasion. The individuals executed numbered nineteen, of whom nine were men of colour, and ten were white men. For the coloured men Her Majesty's Government claim 300*l.* sterling each, and for the white men 500*l.* sterling each; which constitutes a total of 7,700*l.* sterling, it being clearly understood that in the event of no near relative of these men coming forward to establish a claim, or failing to substantiate it, within a reasonable period, the amount paid to Her Majesty's Government on behalf of such individual or individuals shall be forthwith restituted to the Spanish Government.

In submitting the above figures to your Excellency I have no hesitation in looking forward to a favourable reply, confident that the Spanish Government, guided by their high sense of justice, will readily agree with the Government of Her Majesty in considering the amount of compensation claimed both fair and equitable.

I avail, &c.
(Signed) H. G. MACDONELL.

Inclosure 4 in No. 2.

Señor Ulloa to Mr. Macdonell.

(Translation.)

Sir,

Madrid, August 18, 1874.

I HAVE received your note of the 15th instant, in which you state to me, in answer to the note which I had the honour of addressing to you on the 14th, that you are authorized by Her Britannic Majesty's Government to accept the proposal made by me in the name of the Executive Power, to give the sum to which both Governments might agree, for distribution, in the light of an advance, among the families of the British subjects taken on board the "Virginus," and executed at Santiago de Cuba.

You add, in the note to which I have the honour to reply, that as there were nineteen of those unfortunate persons, of whom ten were white men, and the other nine were men of colour; and as the British Government think that they ought to fix, as the rate of indemnity, the sum of 500*l.* sterling for each white man, and 300*l.* for each man of colour, the sum total would amount to 7,700*l.*, to be given by the Spanish Government for the purpose agreed upon.

The Executive Power of the nation agree, on their side, to the sum fixed, and will give the necessary orders, through the Ministry of Finance, so that 6,700*l.* may be at once placed in London at the disposal of Her Britannic Majesty's Government, and the remaining 1,000*l.* wanting for the completion of the whole sum of 7,700*l.* will be handed over when this matter shall be definitively settled, according to that which is proposed in my note of 14th instant; the British Government promising, in their turn, to reimburse to the Spanish Government the sum or sums corresponding to those individuals whose relations may make no claim, or may not fully prove, within a reasonable time, their right to receive the indemnity.

I avail, &c.
(Signed) A. ULLOA.

No. 3.

The Earl of Derby to Mr. Macdonell.

Sir,

Foreign Office, September 7, 1874.

I HAVE received your despatch of the 19th instant, inclosing copies of a correspondence with the Spanish Minister for Foreign Affairs, from which it appears that orders have been given for the immediate payment to Her Majesty's Government of 6,700*l.* as compensation to the relatives of the British subjects taken on board the "Virginus" and executed at Santiago, and that a further sum of 1,000*l.* will be paid when the question has been definitely settled by the Council of State.

I approve your proceedings in this matter, as reported in your above-mentioned despatch, and I have to instruct you to express to Señor Ulloa the satisfaction with which Her Majesty's Government have learnt that their proposals for the settlement of the question have been accepted by the Government of Spain.

I am, &c.
(Signed) DERBY.

No. 4.

Mr. Layard to the Earl of Derby.—(Received December 5.)

My Lord,

Madrid, November 25, 1874.

SEÑOR ULLOA expressed the greatest surprise when I told him two days ago that the indemnities to the families of the British subjects taken on board the "Virginus" and executed at Santiago had not been paid to your Lordship. I could scarcely persuade him that such was the case. He said that he would go at once to the Minister of Finance and ask for an explanation. In the evening he informed me that he had seen his colleague on the subject, and that peremptory orders would be given on Wednesday (to-day) for the payment of the money without further delay. I trust, therefore, that your Lordship will now have received it, or that M. de Comyn is prepared to hand it over to you.

I have, &c.
(Signed) A. H. LAYARD.

No. 5.

The Earl of Derby to Señor Comyn.

M. le Ministre,

Foreign Office, December 10, 1874.

I HAVE the honour to acquaint you that I have received a despatch from Her Majesty's Minister at Madrid, dated the 25th ultimo, reporting that he had been informed by Señor Ulloa, two days previously, that peremptory orders would at once be given for the payment to Her Majesty's Government of the indemnities due to the relatives of the

British subjects who were shot at Santiago de Cuba in November 1873; and I now beg to request that you will have the goodness to inform me whether you have received any instructions from your Government in the matter.

I have, &c.
(Signed) DERBY.

No. 6.

Señor Comyn to the Earl of Derby.—(Received December 16.)

My Lord,

Londres, 14 de Diciembre, 1874.

CONFORME á las órdenes recibidas de mi Gobierno, tengo la honra de acompañar adjunto un cheque expedido con fecha de hoy por los Señores Federico Huth y Cía. de esta ciudad, á la orden de vuestra Excelencia como Principal Secretario de Estado para los Negocios Estrangeros, por la suma de seis mil setecientas libras esterlinas, convenida para el arreglo del asunto del vapor "Virginus."

Ruego á vuestra Excelencia se sirva acusarme el recibo de la citada suma, y aprovecho, &c.,

(Firmado) JUAN S. COMYN.

(Translation.)

My Lord,

London, December 14, 1874.

IN conformity with the orders received from my Government, I have the honour of inclosing herewith a cheque drawn with this day's date upon Messrs. Frederick Huth and Company, of this city, to the order of your Excellency as Principal Secretary of State for Foreign Affairs, for the sum of 6,700*l.* sterling, agreed upon for the settlement of the affair of the steamer "Virginus."

I beg that your Excellency will be pleased to acknowledge the receipt of the said sum.

I have, &c.
(Signed) JUAN S. COMYN.

No. 7.

The Earl of Derby to Señor Comyn.

M. le Ministre,

Foreign Office, December 18, 1874.

I HAVE the honour to acknowledge the receipt of your letter of the 14th instant, inclosing a cheque on Messrs. Huth and Co., of this city, to my order for the sum of 6,700*l.* on account of the claims of the families of the British subjects taken on board the "Virginus," and executed at Santiago de Cuba in November 1873.

I have, &c.
(Signed) DERBY.

No. 8.

The Earl of Derby to Mr. Layard.

Sir,

Foreign Office, December 19, 1874.

I TRANSMIT to you herewith a copy of a note from the Spanish Minister at this Court,* inclosing a cheque for 6,700*l.* on account of the claims of the families of the British subjects executed at Santiago de Cuba in November 1873 for participation in the "Virginus" affair.

I also inclose a copy of the answer which I have returned to Señor Comyn.†

I am, &c.
(Signed) DERBY.

SPAIN. No. 1 (1875).

FURTHER CORRESPONDENCE respecting the Capture
of the "Virginus."

(In continuation of "Spain No. 4 : 1874.")

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1875.*

LONDON :

PRINTED BY HARRISON AND SONS.

425
SWITZERLAND. No. 1 (1875).

TREATY

BETWEEN

HER MAJESTY

AND THE

SWISS CONFEDERATION

FOR THE

MUTUAL SURRENDER OF FUGITIVE CRIMINALS.

Signed at Berne, March 31, 1874.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

[C.—1160.] Price 1½d.

TREATY between Her Majesty and the Swiss Confederation for the Mutual Surrender of Fugitive Criminals.

Signed at Berne, March 31, 1874.

Ratifications exchanged at Berne, December 31, 1874.

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Swiss Confederation, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories and jurisdictions, that persons charged with, or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Alfred Guthrie Graham Bonar, Esquire, Her Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation ;

And the Federal Council of the Swiss Confederation, Joseph Martin Knüsel, Member of the Swiss Federal Council ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

ARTICLE I.

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party under the circumstances and conditions stated in the present Treaty.

NACHDEM Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, und die Schweizerische Eidgenossenschaft, behufs besserer Verwaltung der Rechtspflege und zur Verhütung von Verbrechen innerhalb der beiden Gebiete und Gerichtsbarkeiten es für zweckmässig befunden haben, dass Personen, welche der in diesem Vertrage aufgeführten strafbaren Handlungen beschuldigt oder wegen solcher verurtheilt und vor der Justiz flüchtig geworden sind, unter bestimmten Umständen gegenseitig ausgeliefert werden sollen ; so haben sie behufs Abschliessung eines desfallsigen Vertrages zu Ihren Bevollmächtigten ernannt und zwar :

Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland Alfred Guthrie Graham Bonar, Esquire, Ihren ausserordentlichen Gesandten und Bevollmächtigten Minister bei der Schweizerischen Eidgenossenschaft ;

Und der Bundesrath der Schweizerischen Eidgenossenschaft Joseph Martin Knüsel, Mitglied des Schweizerischen Bundesrathes ;

Welche, nachdem sie sich gegenseitig ihre Vollmachten mitgetheilt und dieselben in guter und gehöriger Form befunden, die folgenden Artikel vereinbart und abgeschlossen haben :—

ARTIKEL I.

Die hohen vertragenden Theile verpflichten sich einander diejenigen Personen auszuliefern, welche wegen einer, auf dem Gebiete des einen Theils begangenen strafbaren Handlung beschuldigt oder verurtheilt sind und in dem Gebiete des andern Theiles aufgefunden werden, sofern die in dem gegenwärtigen Vertrage angegebenen Fälle und Voraussetzungen vorhanden sind.

ARTICLE II.

The crimes for which the extradition is to be granted are the following :—

- (1.) Murder (including infanticide) and attempt to murder.
- (2.) Manslaughter.
- (3.) Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.
- (4.) Forgery, or counterfeiting, or altering, or uttering what is forged, or counterfeited, or altered; comprehending the crimes designated in the Penal Codes of either State as counterfeiting or falsification of paper money, bank-notes, or other securities, forgery, or other falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.
- (5.) Embezzlement or larceny.
- (6.) Obtaining money or goods by false pretences.
- (7.) Crimes against bankruptcy law.
- (8.) Fraud committed by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company made criminal by any law for the time being in force.
- (9.) Rape.
- (10.) Abduction of minors.
- (11.) Child stealing or kidnapping.
- (12.) False imprisonment.
- (13.) Burglary, or housebreaking, with criminal intent.
- (14.) Arson.
- (15.) Robbery with violence.
- (16.) Threats by letter or otherwise with intent to extort.
- (17.) Perjury or subornation of perjury.
- (18.) Malicious injury to property, if the offence be indictable.

The extradition is also to take place for participation in any of the aforesaid crimes, as an accessory before or after the fact.

ARTIKEL II.

Die strafbaren Handlungen, wegen deren die Auslieferung zu gewähren ist, sind folgende :—

- (1.) Mord, mit Inbegriff des Kindsmordes, und Mordsversuch.
- (2.) Todtschlag.
- (3.) Nachmachen oder Verfälschen von Metallgeld, Verausgabung oder Inumlaufsetzen nachgemachten oder verfälschten Metallgeldes.
- (4.) Fälschung, nachmachen oder Verändern, sowie die Verausgabung dessen, was nachgemacht, gefälscht oder verändert ist, inbegriffen die Verbrechen welche in den Strafgesetzen des einen oder andern Staates als nachmachen oder Verfälschen von Papiergeld, Banknoten oder andern Werthschriften enthalten sind; ferner die Fälschung oder Verfälschung anderer öffentlicher oder Privat-Urkunden, sowie die Verausgabung, das In-Verkehr-Bringen oder der wissentliche Gebrauch solcher nachgemachter gefälschter oder verfälschter Papiere.
- (5.) Diebstahl und Unterschlagung.
- (6.) Betrug, resp. Erlangung von Geld oder andern Sachen durch falsche Vorspiegelungen.
- (7.) Betrügerlicher Bankrott, resp. Verbrechen gegen das Gesetz betreffend Bankrott.
- (8.) Untreue Seitens eines Verwalters Beauftragten, Banquiers, Agenten, Prokuristen, Vormundes oder Kurators, Vorstandes, Mitgleides oder Beamten irgend einer Gesellschaft, soweit dieselbe nach den bestehenden Gesetzen mit Strafe bedroht ist.
- (9.) Nothzucht.
- (10.) Entführung von minderjährigen.
- (11.) Menschenraub.
- (12.) Rechtswidriges Gehangenhalten.
- (13.) Einbrechen oder Einsteigen in ein Wohnhaus in verbrecherischer Absicht.
- (14.) Vorsätzliche Brandstiftung.
- (15.) Raub unter Anwendung von Gewalt.
- (16.) Drohungen mittels Brief oder auf andere Weise, mit der Absicht, zu erpressen.
- (17.) Meineid und die Verleitung zum Meineid.
- (18.) Böswillige Eigenthumsbeschädigung, insofern sie kriminalrechtliche Verfolgung begründet.

Die Auslieferung findet auch statt wegen Theilnahme an einer der vorbezeichneten strafbaren Handlungen, mag die Theilnahme vor oder nach der Verübung stattfinden.

ARTICLE III.

No Swiss shall be delivered up by Switzerland to the Government of the United Kingdom; and no subject of the United Kingdom shall be delivered up by the Government thereof to Switzerland.

ARTICLE IV.

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Swiss Government, has already been tried and discharged or punished, or is still under trial, in one of the Swiss Cantons or in the United Kingdom respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Swiss Government, should be under examination, or have been condemned for any other crime, in one of the Swiss Cantons or in the United Kingdom respectively, his extradition may be deferred until he shall have been set at liberty in due course of law.

In case such individual should be proceeded against or detained in the country in which he has taken refuge, on account of obligations contracted towards private individuals, his extradition shall, nevertheless, take place; the injured party retaining his right to prosecute his claims before the competent authority.

ARTICLE V.

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

ARTICLE VI.

If the individual claimed by one of the two Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date; unless any other arrangement should be made between the Governments which have claimed him, either on

ARTIKEL III.

Kein Schweizer wird von Seiten der Schweiz an die Regierung des Vereinigten Königreiches und von Seiten dieser kein englischer Unterthan an die Schweiz ausgeliefert werden.

ARTIKEL IV.

Die Auslieferung soll nicht stattfinden, wenn die von der Schweizerischen Regierung verfolgte Person im Vereinigten Königreich, oder die Seitens der Regierung des Vereinigten Königreiches verfolgte Person in einem Kanton der Schweiz wegen derselben strafbaren Handlung, wegen deren die Auslieferung nachgesucht wird, in Untersuchung gewesen und ausser Verfolgung gesetzt worden, oder sich noch in Untersuchung befindet, oder bereits bestraft worden ist.

Wenn die von der Schweizerischen Regierung verfolgte Person im Vereinigten Königreich, oder wenn die Seitens der Regierung des Vereinigten Königreiches verfolgte Person in einem Kanton der Schweiz wegen einer andern strafbaren Handlung in Untersuchung liegt oder bestraft worden ist, so kann die Auslieferung verschoben werden, bis diese Person in gehörigen Rechtsgang in Freiheit gesetzt worden ist.

Wird ein solches Individuum wegen Verpflichtungen, die dasselbe mit Privatpersonen abgeschlossen hat, in jenem Lande, in welchem es Zuflucht genommen hat, gerichtlich verfolgt oder mit Personal-arrest belegt, so soll dessen Auslieferung dennoch stattfinden, dabei aber der beschädigten Partei des Recht vorbehalten bleiben, ihre Ausprache vor der kompetenten Behörde geltend zu machen.

ARTIKEL V.

Die Auslieferung soll nicht stattfinden, wenn seit der begangenen strafbaren Handlung, oder der Einleitung der strafgerichtlichen Verfolgung, oder der erfolgten Verurtheilung nach den Gesetzen des ersuchten Staates Verjährung der strafgerichtlichen Verfolgung oder der erkannten Strafe eingetreten ist.

ARTIKEL VI.

Wird ein Individuum von einer der beiden Vertragsparteien auf Grund des gegenwärtigen Vertrages zur Auslieferung reklamirt, zugleich aber auch dessen Auslieferung von einer oder mehreren andern Mächten wegen andern auf deren Gebieten begangenen Verbrechen verlangt, so ist dasjenige Gesuch im Vorgange zu bewilligen, welches das älteste im datum ist, es sei denn, das zwischen den Regierungen,

account of the gravity of the crimes committed, or for any other reasons.

ARTICLE VII.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or is connected with a crime of that nature, or if he prove that the requisition for his surrender has, in fact, been made with a view to try and punish him for an offence of a political character.

ARTICLE VIII.

A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters than those for which the extradition shall have taken place.

This stipulation does not apply to crimes committed after the extradition.

ARTICLE IX.

The requisition for extradition must always be made by the way of diplomacy, and to wit, in Switzerland by the British Minister to the President of the Confederation, and in the United Kingdom to the Secretary of State for Foreign Affairs by the Consul-General of Switzerland, who, for the purposes of this Treaty, is hereby recognized by her Majesty as a Diplomatic Representative of Switzerland.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A requisition for extradition cannot be founded on sentences passed *in contumaciam*.

die das betreffende Individuum reklamirt haben, entweder wegen der Wichtigkeit der begangenen Verbrechen oder aus andern Gründen ein anderes Abkommen getroffen würde.

ARTIKEL VII.

Ein flüchtiger Verbrecher soll nicht ausgeliefert werden, wenn die strafbare Handlung, wegen deren seine Auslieferung verlangt wird, einen politischen Charakter an sich trägt, oder mit einem derartigen Verbrechen zusammenhängt, oder wenn er nachweisen kann, dass der Antrag auf seine Auslieferung in Wirklichkeit mit der Absicht gestellt worden ist, ihn wegen eines Verbrechens oder Vergehens politischer Natur zu verfolgen oder zu bestrafen.

ARTIKEL VIII.

Die ausgelieferte Person darf in dem Staate, an welchen die Auslieferung erfolgt ist, keinesfalls wegen einer andern strafbaren Handlung oder auf Grund anderer Thatsachen, als derjenigen, wegen deren die Auslieferung erfolgt ist, in Haft behalten oder zur Untersuchung gezogen werden.

Auf strafbare Handlungen, welche nach erfolgter Auslieferung verübt sind, findet diese Bestimmung keine Anwendung.

ARTIKEL IX.

Das Auslieferungsbegehren muss immer auf diplomatischem Wege gestellt werden und zwar in der Schweiz durch den englischen Gesandten bei dem Bundespräsidenten und in Grossbritannien durch den schweizerischen General-Konsul in London, welcher von Ihrer Majestät für die Zwecke dieses Vertrages als diplomatischer Repräsentant der Schweiz anerkannt wird, bei dem Staatssekretär für die answärtigen Angelegenheiten.

Mit dem Gesuche auf Auslieferung eines Beschuldigten müssen ein Verhaftsbefehl welcher von der zuständigen Behörde des die Auslieferung begehrenden Staates erlassen ist, und solche Beweise beigebracht werden, welche nach den Gesezen des Ortes, wo der Beschuldigte aufgefunden wird, dessen Verhaftung rechtfertigen würden, wenn die strafbare Handlung dort begangen wäre.

Betrifft das Auslieferungsbegehren eine bereits verurtheilte Person, so muss das Strafurtheil beigebracht werden, welches von dem zuständigen Gericht des die Auslieferung begehrenden Staates gegen den Verurtheilten erlassen worden ist.

Auf Strafurtheile, welche *in contumaciam* erlassen worden sind, kann das Auslieferungsgesuch nicht gegründet werden.

ARTICLE X.

A fugitive criminal may, however, be apprehended under a warrant issued by any police magistrate, justice of the peace, or other competent authority, in either country, on such information or complaint, together with such evidence or after such judicial proceedings as would in the opinion of the officer issuing the warrant justify its issue, if the crime had been committed in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction. Provided, however, that in the United Kingdom the accused shall in such case be sent as speedily as possible before a police magistrate in London. Such requisition may be made by means of the post or by telegraph.

The accused shall, however, be discharged if, within such reasonable time as, with reference to the circumstances of the case, the police magistrate may fix, the requisition shall not have been made according to the stipulations contained in Article IX.

ARTICLE XI.

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

ARTICLE XII.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statement of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of a British Secretary of State, or of the Chancellor of the Swiss Confederation.

ARTIKEL X.

Indessen kann ein flüchtiger Verbrecher in beiden Ländern auch verhaftet werden auf Grund eines Verhaftsbefehles, der von einem Polizeimagistrat, Friedensrichter, oder von einer andern kompetenten Behörde auf eine solche Strafanzeige oder Klage und zugleich auf einen solchen Beweis oder nach einem solchen gerichtlichen Verfahren erlassen wird, dass nach der Ansicht des Beamten, welcher den Verhaftsbefehl erlässt, dessen Erlass gerechtfertigt wäre, wenn das Verbrechen in demjenigen Theile der Gebiete der Vertragsparteien begangen worden wäre, in welchem der Beamte Gerichtsbarkeit ausübt. Es wird indessen bedungen, dass in dem Vereinigten Königreiche in einem solchen Falle der Beklagte so schnell wie möglich vor einen Polizeimagistrat in London gesendet werden soll. Solche Requisitionen mögen vermittels der Post oder durch den Telegraphen gemacht werden.

Der Angeklagte soll indess des Verhaftes entlassen werden, wenn inner einer billigen Frist, die von dem Polizeimagistrat anzusetzen ist und bei deren Fixirung die Verumständungen des einzelnen Falles zu berücksichtigen sind, das Begehren nicht in Gemässheit der in Artikel IX enthaltenen Bestimmungen gestellt worden ist.

ARTIKEL XI.

Die Auslieferung erfolgt nicht vor Ablauf von fünfzehn Tagen seit der Ergreifung und nur dann, wenn die Beweise für genügend befunden worden sind, um nach den Gesetzen des ersuchten Staates entweder die Verweisung des Ergriffenen zur Hauptuntersuchung zu rechtfertigen, falls die strafbare Handlung im Gebiet dieses Staates begangen wäre, oder darzuthun, dass der Ergriffene mit der von den Gerichten des ersuchenden Staates verurtheilten Person identisch ist.

ARTIKEL XII.

Die Behörden des ersuchten Staates haben bei der Prüfung, welche ihnen nach den vorstehenden Bestimmungen obliegt, den beschworenen depositionen und Zeugnisaussagen, welche in dem andern Staate zu Protokoll genommen sind, desgleichen den Abschriften hievon und ebenso den im andern Staate erlassenen Haftbefehlen und Urtheilen volle Beweiskraft beizulegen, vorausgesetzt, dass diese Schriftstücke durch einen Richter, eine obrigkeitliche Person oder einen andern Beamten dieses Staates unterzeichnet oder bescheinigt und durch einen beeidigten Zeugen oder durch Beidrückung des Amtssiegels eines englischen Staatsministers oder des schweizerischen Bundeskanzlers beglaubigt sind.

ARTICLE XIII.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

ARTICLE XIV.

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

ARTICLE XV.

The Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance to the frontiers of the State from which he is required; they reciprocally agree to bear such expenses themselves.

ARTICLE XVI.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign Possessions of Her Britannic Majesty.

The requisition for the arrest and surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign Possessions shall be made through the Swiss Consul-General in London to the Secretary of State for Foreign Affairs, who shall proceed in conformity with the provisions of the present Treaty and the laws of the land.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign Possessions for the surrender of such individuals as shall have committed in Switzerland any of the crimes hereinafore mentioned, who may take refuge within such Colonies and foreign Possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or foreign Possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

ARTIKEL XIII.

Wenn die zur Auslieferung genügenden Beweise nicht binnen zwei Monaten von dem Tage der Ergreifung des Flüchtigen an beigebracht werden, so ist der Ergriffene auf freien Fuss zu setzen.

ARTIKEL XIV.

Alle in Beschlag genommenen Gegenstände, welche sich zur Zeit der Verhaftung der auszuliefernden Person in deren Besitz waren, sollen, wenn die zuständige Behörde des um die Auslieferung ersuchten Staates die Ausantwortung derselben angeordnet hat, bei Vollziehung der Auslieferung mit übergeben werden, und diese Ueberlieferung soll sich nicht bloß auf die entfremdeten Gegenstände, sondern auch auf Alles erstrecken, was zum Beweis der strafbaren Handlung dienen kann.

ARTIKEL XV.

Die vertragenden Theile verzichten darauf, die Erstattung derjenigen Kosten, welche ihnen aus der Festnahme und dem Unterhalt des Auszuliefernden und seinem Transport bis zur Grenze des requirirten Staates erwachsen, in Anspruch zu nehmen, willigen vielmehr gegenseitig darein, diese Kosten selbst zu tragen.

ARTIKEL XVI.

Die Bestimmungen des gegenwärtigen Vertrages sollen auf die Kolonien und auswärtigen Besitzungen Ihrer Grossbritannischen Majestät Anwendung finden.

Der Antrag auf Verhaftung und Auslieferung eines flüchtigen Verbrechers, welcher in einer dieser Kolonien oder auswärtigen Besitzungen Zuflucht gefunden hat, soll durch den schweizerischen General-Konsul in London bei dem Staatssekretär der auswärtigen Angelegenheiten gestellt werden, welcher nach Vorschrift dieses Vertrages und der bestehenden Gesetze zu verfahren hat.

Ihrer Grossbritannischen Majestät soll es jedoch freistehen, in den britischen Kolonien und auswärtigen Besitzungen über die Auslieferung solcher Individuum die in der Schweiz ein im Vertrag genanntes Verbrechen begangen haben, aber innerhalb dieser Kolonien und auswärtigen Besitzungen Zuflucht gefunden haben, auf möglichst gleicher Grundlage mit den Bestimmungen des gegenwärtigen Vertrages besondere Anordnungen zu treffen.

Begehren betreffend die Auslieferung von Verbrechern, welche aus einer Kolonie oder auswärtigen Besitzung Ihrer Grossbritannischen Majestät geflüchtet sind, sollen nach den Bestimmungen der vorstehenden Artikel des gegenwärtigen Vertrages behandelt werden.

* See Protocol annexed.

ARTICLE XVII.

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

The Treaty shall be ratified, and the ratifications shall be exchanged at Berne in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Berne, the thirty-first day of March, in the year of our Lord one thousand eight hundred and seventy-four.

(L.S.) A. G. G. BONAR.

(L.S.) J. M. KNÜSEL.

ARTIKEL XVII.

Der gegenwärtige Vertrag soll zehn Tage nach seiner, in Gemässheit der durch die Gesetzgebung der hohen vertragenden Theile vorgeschriebenen Formen erfolgten Veröffentlichung in Kraft treten. Der Vertrag kann von jedem der beiden hohen vertragenden Theile aufgekündigt werden, bleibt jedoch nach erfolgter Aukündigung noch sechs Monate in Kraft.

Der Vertrag wird ratifizirt und die Ratifikationen werden nach vier Wochen, oder wo möglich früher, in Bern ausgewechselt werden.

Zu Urkund dessen haben die beiderseitigen Bevollmächtigten die gegenwärtige Uebereinkunft unterzeichnet und mit ihren Wapen untersiegelt.

So geschehen in Bern den einunddreissigten März, Eintausend achthundert vier und siebenzig.

(L.S.) A. G. G. BONAR.

(L.S.) J. M. KNÜSEL.

The Undersigned Plenipotentiaries of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Federal Council of the Swiss Confederation, having met in Conference, have taken into their consideration the following subject:—

They have directed their attention to the fact that the second paragraph of the XVIth Article of the Treaty, which stipulates that the requisition for the arrest of a fugitive criminal who has taken refuge in any of the Colonies or foreign possessions of Her Britannic Majesty shall be made through the Swiss Consul-General in London to the Secretary of State for Foreign Affairs, was not in accordance with the law of England, and they have consequently resolved to declare that the second paragraph of that Article beginning:

“The requisition for the arrest,” and concluding with, “and the laws of the land,” shall be null and void, and in lieu thereof the following words shall be substituted:

“The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign Possessions

Die unterzeichneten Bevollmächtigten Ihrer Majestät der Königin des Vereinigten Königreichs von Grossbritannien und Irland, und des Bundesrathes der Schweizerischen Eidgenossenschaft, haben in einer Konferenz folgenden Gegenstand in Erwägung gezogen:—

Sie haben ihre Aufmerksamkeit auf die Thatsache gerichtet, dass der zweite Absatz von Artikel XVI des Vertrages, welcher bestimmt, dass das Gesuch um Verhaftung eines flüchtigen Verbrechers, welcher sich nach einer der Colonien oder auswärtigen Besizungen Ihrer Grossbritannischen Majestät gewendet hat, durch den schweizerischen General-Consul in London an den Staatssekretär für die auswärtigen Angelegenheiten gerichtet werden soll, mit den Gesezen Englands nicht in Einklang steht. Sie sind daher übereingekommen zu erklären, dass der zweite Absatz besagten Artikels, also beginnend:

“Der Antrag auf Verhaftung,” und schliessend, “der bestehenden Geseze zu verfahren hat,” null und nichtig sein, und an Stelle desselben die nachfolgenden Worte eingeschaltet werden sollen:

“Der Antrag auf Auslieferung eine flüchtigen Verbrechers, welcher in einer dieser Colonien oder auswärtigen Besizungen

shall be made to the Governor or to the supreme authority of such Colony or Possession through the Swiss Consul, or, in case there should be no Swiss Consul, through the Consular Agent of another State charged for the occasion with the Swiss interests in the Colony or Possession in question.

“The Governor or Supreme Authority above-mentioned shall decide with regard to such requisitions as nearly as possible in accordance with the provisions of the present Treaty. He will, however, be at liberty either to consent to the extradition or report the case to his Government.”

The other provisions of Article XVI remain in force as they have been agreed upon in the Treaty.

This Protocol shall be regarded and acted upon as forming part of the Treaty in question.

In witness whereof the Undersigned have signed this Protocol, and have hereunto affixed their seals.

Done in duplicate at Berne, the twenty-eighth day of November, in the year of Grace one thousand eight hundred and seventy-four.

The Plenipotentiary of Great Britain,

(L.S.) EDWIN CORBETT.

Zuflucht gefunden hat, soll bei dem Gouverneur oder bei der höchsten Behörde der betreffenden Colonie oder Besizung durch den in derselben residirenden schweizerischen Consul, oder in Ermangelung eines solchen, durch den Consularagenten eines andern Staates, welchem für diesen speciellen Fall die Wahrnehmung der schweizerischen Interessen in der fraglichen Colonie oder Besizung anvertraut wird, gestellt werden.

“Der Gouverneur oder die höchste Behörde, welche oben erwähnt sind, sollen bezüglich solcher Auslieferungsbegehren möglichst conform mit den Bestimmungen des vorliegenden Vertrages entscheiden. Es steht ihnen indess frei, die Auslieferung zu bewilligen oder den Fall ihrer Regierung zum Entscheid zu überweisen.”

Die andern Punkte von Artikel XVI bleiben in der im Vertrag vereinbarten Form in Kraft.

Dieses Protokoll soll als integrierender Bestandtheil des Vertrages angesehen und beobachtet werden.

Zur Urkunde dessen haben die Unterfertigten dasselbe unterzeichnet und ihre Siegel beigesezt.

So geschehen in doppelter Ausfertigung in Bern, den achtundzwanzigsten Tag des Wintermonats im Jahre des Heils ein tausend acht hundert vier und siebenzig.

Der Bevollmächtigte der Schweiz,

(L.S.) J. M. KNÜSEL.

SWITZERLAND. No. 1 (1876).

TREATY between Her Majesty and the Swiss Confederation for the Mutual Surrender of Fugitive Criminals.

Signed at Berne, March 31, 1874.

Presented to both Houses of Parliament by Command of Her Majesty. 1875.

LONDON:

PRINTED BY HARRISON AND SONS.

438
CONSULAR. No. 5 (1875).

RETURN
OF
CIVIL AND CRIMINAL CASES
TRIED IN THE
CONSULAR COURTS
IN THE
OTTOMAN DOMINIONS.

1856—75.

*Presented to the House of Commons by Command of Her Majesty, in pursuance
of their Address dated August 9, 1875.*

LONDON:
PRINTED BY HARRISON AND SONS.

[C.—1368.] Price 2½d.

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RETURN to an Address of the Honourable the House of Commons, dated 9th August, 1875; for—

“ Returns of all Cases, Civil and Criminal, tried in each year since 1856, before the Supreme and other Consular Courts in Ottoman territory, specifying such as have been appeals to the Supreme Consular Courts :

“ Of the number of Prisoners in each year sent to Malta for punishment :

“ Of the British Imports and Exports and Tonnage at each port in Turkey :

“ And, of the number of registered British subjects residing within the jurisdiction of each Consulate and Vice-Consulate in Turkey during the same period.”

Circular addressed to Her Majesty's Consular Officers in Turkey.

Sir,

Foreign Office, October 19, 1875.

I AM directed by the Earl of Derby to transmit to you a copy of a Resolution passed during the last Session of Parliament, calling for Returns respecting Judicial and Commercial matters connected with the Ottoman Dominions ; and I am to instruct you to send home the information required, so far as it affects the place where you reside, with as little delay as possible.

You will also procure the required information from the Vice-Consuls within your jurisdiction, and additional copies of the Resolution are inclosed for communication to the Vice-Consuls from whom the Returns are required.

I am, &c.

(Signed) T. V. LISTER.

Inclosure.

Monday, 9th August, 1875.

Resolved, That an humble Address be presented to Her Majesty, that She will be graciously pleased to give directions that there be laid before this House, Returns of all Cases, civil and criminal, tried in each year since 1856, before the Supreme and other Consular Courts in Ottoman territory, specifying such as have been appeals to the Supreme Consular Courts :

Of the number of Prisoners in each year sent to Malta for punishment :

Of the British Imports and Exports and Tonnage at each port in Turkey :

And, of the number of registered British subjects residing within the jurisdiction of each Consulate and Vice-Consulate in Turkey during the same period.

Ordered, That the said Address be presented to Her Majesty by such Members of this House as are of Her Majesty's Most Honorable Privy Council.

(Signed)

REGINALD F. D. PALGRAVE,
Clerk Assistant, House of Commons.

Circular to Her Majesty's Consular Officers in Egypt, Tripoli, and Tunis.

Sir,

Foreign Office, October 19, 1875.

I AM directed by the Earl of Derby to transmit to you a copy of a Resolution passed during the last Session of Parliament, calling for a Return respecting Judicial and Commercial matters connected with the Ottoman Dominions; and I am to instruct you to send home the information required, so far as it affects the place where you reside, with as little delay as possible.

You will observe that the third and fourth paragraphs of the Resolution only refer to Turkey, but while the information is being got together it is desirable that it should comprise the whole of the Ottoman Dominions.

You will accordingly furnish information in regard to the Imports and Exports of the place of your residence, and of the numbers of British subjects enrolled at your Consulate, in addition to the information wanted to comply with the requirements of the first two paragraphs of the Resolution.

You will also procure the required information from the Vice-Consuls within your jurisdiction, and additional copies of the Resolution are inclosed for communication to the Vice-Consuls from whom Returns are required.

I am, &c.

(Signed) T. V. LISTER.

Returns to preceding Circulars.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.		Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
CONSTANTINOPLE—*					£	£		
1858	Civil, 336	Criminal, 282	6	—	Nil	Nil	Nil	381
1859	418	265	9	—	"	"	"	239
1860	343	128	9	—	"	"	"	359
1861	285	170	10	—	"	"	"	229
1862	214	195	3	1	"	"	"	120
1863	258	174	5	—	"	"	533,289	2,529
1864	212	155	1	—	"	"	669,949	747
1865	80	111	4	—	"	"	567,538	471
1866	78	125	3	2	"	"	655,361	478
1867	87	198	3	—	"	"	832,887	447
1868	55	125	4	2	"	"	950,941	459
1869	86	152	7	1	"	"	902,116	827
1870	148	157	1	—	"	"	948,002	804
1871	144	154	6	—	"	"	1,130,991	738
1872	132	95	1	—	"	"	1,242,507	681
1873	141	83	2	1	"	"	1,245,290	560
1874	72	74	1	2	"	"	1,487,762	900
1875	65	96	5	2	"	"	1,369,374	762
ADRIANOPLE—								
1856 to 1861*	—	—	—	—	—	—	—	—
1862	Civil, Nil	Criminal, Nil	Nil	Nil	10,750	Nil	Nil	78†
1863	12	1	"	"	16,750	"	"	97†
1864	5	1	"	"	22,200	"	"	46†
1865	Nil	Nil	"	"	14,950	"	"	6
1866	"	"	"	"	16,770	"	"	6
1867‡	"	"	"	"	13,680	"	"	6
1868	"	"	"	"	Not known	"	"	5
1869	"	"	"	"	8,070	"	"	9
1870	1	"	"	"	10,950	"	"	8
1871	1	"	"	"	9,560	"	"	14
1872	Nil	"	"	"	57,000	"	"	14
1873	1	"	"	"	10,904	"	"	19
1874	Nil	"	"	"	15,000	"	"	17
1875	"	"	"	"	—	"	"	14
BRUSSA—								
1856	Civil, Nil	Criminal, Nil	Nil	Nil	Nil	Nil	Nil	63
1857	"	"	"	"	"	"	"	2
1858	"	"	"	"	"	"	"	43
1859	"	"	"	"	"	"	"	6
1860	"	"	"	"	"	"	"	5
1861	"	"	"	"	"	"	"	Nil
1862	"	"	"	"	"	"	"	2
1863	"	"	"	"	"	"	"	90
1864	3	"	"	"	"	"	"	15
1865	16	"	"	"	"	"	"	Nil
1866	18	"	"	"	"	"	"	"
1867	Nil	"	"	"	"	"	"	"
1868	"	"	"	"	"	"	"	2
1869	7	"	"	"	"	"	"	Nil
1870	6	"	"	"	"	"	"	13
1871	6	"	"	"	"	"	"	8
1872	2	"	"	"	"	"	"	Nil
1873	Nil	"	"	"	"	"	"	1
1874	4	"	"	"	"	"	"	2
1875	1	"	"	"	"	"	"	9

* These Returns are imperfect in two respects:—1st. The Judicial Returns can be supplied for that period only during which the Supreme Consular Court has been in operation. 2nd. The Shipping Return begins with 1863. This can be relied on, as being derived from official sources—the Administration of Lighthouses. Previous to that date the figures given were not necessarily authentic. It is impossible to arrive at the value of Exports and Imports in this country. There are no statistics available for this purpose.

† The Consulate of Adrianople was abolished in 1851, and re-established in 1862.

‡ Previous to 1867, export trade to England did not exist.

† British and Ionians.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.			
DARDANELLES—*						£	£					
1856	Civil, 6	..	Criminal, 1	Nil	Nil	Yearly average £100,000 to £120,000	40,000	3,500	No record			
1857	8	..	"	"	"		46,000	4,200	25			
1858	4	..	"	1	"		40,000	No record	No record			
1859	2	..	"	"	"		40,000	"	"			
1860	2	..	"	"	"		45,000	"	"			
1861	1	..	"	"	"		90,000	"	"			
1862	2	..	1	"	"		140,000	1,200	"			
1863	8	..	"	1	"		160,000	1,800	17			
1864	11	..	4	"	"		120,000	4,600	16			
1865	8	..	1	"	"		80,000	6,600	21			
1866	3	..	"	"	"	47,000	1,100	23				
1867	5	..	"	"	"	45,000	3,879	23				
1868	4	..	"	"	"	50,000	7,780	25				
1869	4	..	"	"	"	50,000	6,514	23				
1870	8	..	"	"	"	£140,000 to £150,000	57,000	1,435	23			
1871	6	..	"	"	"	58,000	1,660	22				
1872	13	..	1	"	"	60,000	4,979	26				
1873	15	..	1	"	"	60,000	451	22				
1874	14	..	"	"	"	65,000	2,862	23				
1875	13	..	"	"	"	64,000	6,084	21				
GALLIPOLI—												
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Nil	Nil	Nil	2	
1857	"	"	"	"	"	"	"	"	2			
1858	"	"	"	"	"	"	"	"	2			
1859	"	"	"	"	"	"	"	"	2			
1860	"	"	"	"	"	"	"	"	2			
1861	"	"	"	"	"	"	"	"	2			
1862	"	"	"	"	"	"	"	"	2			
1863	"	"	"	"	"	"	"	"	2			
1864	"	"	"	"	"	2,800	40,350	"	Nil			
1865	"	"	"	"	"	2,120	19,600	"	"			
1866	"	"	"	"	"	3,300	16,300	"	2			
1867	"	"	"	"	"	3,975	4,875	"	2			
1868	"	"	"	"	"	4,126	6,312	"	2			
1869	"	"	"	"	"	1,147	3,575	"	2			
1870	"	"	"	"	"	716	4,960	"	Nil			
1871	"	"	"	"	"	800	1,784	"	"			
1872	"	"	"	"	"	764	6,176	"	"			
1873	"	"	"	"	"	800	5,615	"	2			
1874	"	"	"	"	"	600	5,000	"	Nil			
RHODES AND DEPENDENCIES— (comprising the small Islands of the Sporades.)†												
1856	12	Cases tried before the Consular Court of Rhodes.	Cases concerning British Subjects tried before the Turkish Tribunals with the assistance of the Consular Court of Rhodes.	40	..	1	Cases submitted by the Consul to the Supreme Consular Court at Constantinople, asking for instructions or for Vizierial Letters.	130,000	30,000	5,591	570	
1857	22			56	..	"		120,000	26,000	4,819	574	
1858	43			58	..	2		140,000	30,000	4,563	603	
1859	19			43	..	"		150,000	37,000	4,478	608	
1860	11			23	..	"		130,000	42,000	5,086	628	
1861	36			17	..	4		1 sent to Constantinople.	127,000	41,000	4,954	530
1862	11			16	..	1			125,000	44,000	7,034	612
1863	5			12	..	1			120,000	36,000	7,694	671
1864	1			7	..	"			123,000	45,000	3,630	43
1865	2			2	..	"			140,000	50,000	1,724	45
1866	5			10	..	2			152,000	46,000	1,465	46
1867	8			18	..	"			165,000	50,000	2,558	45
1868	9			10	..	"			180,000	65,000	33,422	65
1869	5			25	..	1			200,000	80,000	56,234	70
1870	4			24	..	2			210,000	90,000	27,542	74
1871	4			25	..	"			200,000	85,000	55,736	71
1872	3			17	..	"			210,000	90,000	44,832	65
1873	2	29	..	"	220,000	90,000	63,531		56			
1874	6	18	..	1	200,000	80,000	79,324		68			
1875	4	15	..	"	210,000	95,000	47,890		65			
TREBIZOND—												
1856	Civil and Criminal, Nil	Nil	Nil	Unknown	Unknown		27,657	18		
1857	"	"	"	"	"	"	"	11,148	12			
1858	"	"	"	"	"	"	"	8,798	9			

* Trade with England, both Import and Export, is chiefly indirect, and the value can only be imperfectly estimated. Tonnage Returns include only shipping, taking, or landing cargo, or requiring Consular assistance. Registered British subjects comprise only the male adults. Females and non-adults, 103.

† REMARKS.—In the Civil and Criminal Cases, in the Number of Subjects, and also in the Tonnage of Ships, the Ionian Subjects and Vessels are comprised up to 1863. The great difference in the Tonnage of Ships since 1868 with the previous years arises from the establishment of a line of Steamers calling regularly in this Vice-Consular District. The Criminal Case marked A, in 1861, was tried at Rhodes before Sir Edmund Hornby, Judge at Constantinople, who came on purpose here.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
TREBIZOND—continued.				£	£		
1859	Civil and Criminal, Nil	Nil	Nil	Unknown	Unknown	6,132	12
1860	" " " "	"	"	"	"	480	10
1861	" " " "	"	"	"	"	1,039	15
1862	" " " "	"	"	"	"	4,336	11
1863	" " " "	"	"	"	"	509	7
1864	" " " "	"	"	"	"	276	4
1865	" " " "	"	"	"	"	"	4
1866	" " " "	"	"	796,459	73,140	"	5
1867	" " " "	"	"	868,368	74,312	3,241	5
1868	" " " "	"	"	879,107	73,815	1,496	3
1869	" " " "	"	"	866,169	75,159	642	3
1870	" " " "	"	"	734,662	79,493	506	"
1871	" " " "	"	"	599,975	82,452	"	"
1872	" " " "	"	"	741,892	83,213	"	"
1873	" " " "	"	"	845,791	98,326	3,795	"
1874	" " " "	"	"	1,336,362	111,186	392	3
ALEPPO—							
1856	Civil, Nil .. Criminal, Nil	Nil	Nil	240,104	65,473	27,010	14
1857	2	"	"	275,220	37,522	21,255	20
1858	24	"	"	427,116	52,017	24,125	25
1859	10	"	"	374,624	54,953	27,920	30
1860	3	"	"	365,348	43,727	29,328	29
1861	20	"	"	825,220	44,619	28,324	34
1862	6	"	"	443,644	54,252	26,890	30
1863	7	1	"	508,400	90,785	30,420	37
1864	12	Nil	"	1,617,117	95,441	32,100	33
1865	5	"	"	1,250,000	75,255	31,604	29
1866	3	"	"	1,203,153	60,813	30,400	20
1867	9	"	"	765,830	38,363	22,150	25
1868	3	"	"	805,232	42,400	21,712	24
1869	7	"	"	754,667	34,404	20,110	54
1870	6	"	"	710,644	43,500	20,800	74
1871	2	"	"	619,008	41,688	19,250	101
1872	4	"	"	634,028	30,504	30,100	101
1873	8	"	"	841,787	115,758	45,290	91
1874	1	"	"	480,370	91,596	38,739	46
1875	6	"	"	332,437	72,461	39,008	27
MERSINA—*							
1869	Civil and Criminal, Nil	Nil	Nil	128,697	365,217	11,669	3
1870	" " " "	"	"	210,000	321,455	7,900	3
1871	" " " "	"	"	235,871	456,521	8,550	1
1872	" " " "	"	"	432,000	120,500	12,680	2
1873	" " " "	"	"	257,200	72,300	19,320	Nil
1874	" " " "	"	"	221,702	182,665	17,692	"
1175	" " " "	"	"	56,200	36,281	12,120	1
BELGRADE (SERVIA)—							
1856 } to } 1862 }	Civil and Criminal, Nil	Nil	Nil	Not known	Not known	Nil	No record
1863	" " " "	"	"	"	"	"	6
1864	" " " "	"	"	"	"	"	7
1865	" " " "	"	"	"	"	"	4
1866	" " " "	"	"	"	"	"	3
1867	" " " "	"	"	"	"	"	3
1868	" " " "	"	"	"	"	"	3
1869	" " " "	"	"	"	"	"	7
1870	" " " "	"	"	"	"	"	12
1871	" " " "	"	"	"	"	"	10
1872	" " " "	"	"	"	"	"	2
1873	" " " "	"	"	"	"	"	20
1874	" " " "	"	"	"	"	"	14
1875	" " " "	"	"	"	"	"	15
BEYROUT (SYRIA)—							
1857	Civil, Nil .. Criminal, Nil	Nil	Nil	276,472	66,912	26,381	7
1858	" " " "	"	"	432,987	31,348	30,837	7
1859	" " " "	"	"	361,719	8,052	25,661	15
1860	" " " "	"	"	363,585	2,909	31,761	55
1861	" " " "	"	"	432,205	10,918	26,526	8
1862	" " " "	"	"	Not known	Not known	31,170	2
1863	7	8	"	"	"	54,398	115
1864	8	7	"	"	"	66,692	119

* The Vice-Consulate at Mersyna was not regularly organized before the year 1869, when it was attached to the Consular District of Aleppo, and its Archives do not contain any statistics of previous date.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
BEYROUT (SYRIA)— <i>contd.</i>									
1865	Civil, 3	..	Criminal, 3	Nil	Nil	*406,450	Not known	67,536	98
1866	2	..	1	"	"	*489,840	"	43,761	96
1867	1	..	1	"	"	*543,600	"	38,361	74
1868	Nil	..	Nil	"	"	*513,500	"	50,551	87
1869	2	..	1	"	"	*580,450	"	35,240	69
1870	Nil	..	3	"	"	851,750	198,800	37,400	84
1871	1	..	1	"	"	676,900	63,424	22,268	94
1872	3	..	1	"	"	590,489	46,188	39,036	230
1873	2	..	1	"	"	614,952	105,228	59,893	53
1874	2	..	2	"	"	*563,000	Not known	16,834	74
ACRE—									
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Not known	Not known	259	Nil
1857	"	..	..	"	"	"	"	1,679	"
1858	"	..	..	"	"	"	"	1,966	"
1859	"	..	..	"	"	"	"	235	"
1860	"	..	..	"	"	"	"	302	"
1861	"	..	..	"	"	"	"	3,295	"
1862	"	..	..	"	"	"	"	1,428	"
1863	"	..	..	"	"	"	"	5,692	"
1864	"	..	..	"	"	"	"	Nil	"
1865	"	..	..	"	"	"	"	23,144	"
1866	"	..	..	"	"	"	"	9,061	"
1867	"	..	..	"	"	"	"	9,095	"
1868	"	..	..	"	"	"	"	8,951	"
1869	"	..	..	"	"	"	"	14,502	"
1870	"	..	..	"	"	"	"	11,000	"
1871	"	..	..	"	"	"	"	1,390	"
1872	"	..	..	"	"	"	"	4,244	"
1873	"	..	..	"	"	"	"	1,166	"
1874	"	..	..	"	"	"	"	10,698	"
1875	"	..	..	"	"	"	"	15,689	8
DAMASCUS—†									
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Nil	Nil	Nil	9
1857	"	..	..	"	"	"	"	"	9
1858	"	..	..	"	"	"	"	"	52
1859	1	..	..	"	"	"	"	"	62
1860	4	..	..	"	"	"	"	"	60
1861	1	..	..	"	"	"	"	"	52
1862	1	..	..	"	"	"	"	"	52
1863	Nil	..	..	"	"	"	"	"	69
1864	1	..	..	"	"	"	"	"	51
1865	Nil	..	..	"	"	"	"	"	45
1866	1	..	..	"	"	"	"	"	42
1867	1	..	..	"	"	"	"	"	47
1868	Nil	..	..	"	"	"	"	"	49
1869	"	..	..	"	"	"	"	"	50
1870	"	..	..	"	"	"	"	"	45
1871	1	..	..	"	"	"	"	"	46
1872	Nil	..	..	"	"	"	"	"	53
1873	1	..	..	"	"	"	"	"	52
1874	Nil	..	..	"	"	"	"	"	51
1875	"	..	..	"	"	"	"	"	64

* The approximate value of British Bale Goods (Manufactured). The approximate values of other British Imports, such as Colonials, Metals, &c., comparatively of small amount, cannot be ascertained. The number of British subjects registered include all in Syria and Northern Palestine, excepting Damascus.

† Consul Brant to Mr. Logie.

SIR,

Damascus, April 6, 1858.

I had the honour to receive, a short time ago, your Circular of the 19th February, inquiring, on the part of the Judge of Her Majesty's Supreme Consular Court in the Levant, into the procedure, in this Consulate, in regard to judicial cases brought before it. The situation of an inland Consulate, where scarcely a native-born subject of Great Britain resides, and only a few protected subjects of British, Ionian, or Maltese descent are to be found, is such as to afford me nothing to say on the subject of inquiry. The civil cases which have been brought before the Consulate are few, and have been usually settled by an amicable adjustment by the Consul, without any formal judicial examination or any written sentence, and no fees have ever been exacted. I have but lately assumed the duties of this post, and, since I had reason to anticipate new regulations, both by the result of the proposed Parliamentary inquiry into the Consular Service, and by the formation of the Supreme Consular Court at Constantinople, until the new orders or rules were promulgated I determined to leave matters as I found them. Within a few days I have had the honor to receive a second communication, inclosing a list of queries to be replied to, in regard to the prison system in force here. I have only to reply, that there is no record of any criminal cases, that there is no prison in the Consulate, and that when a person has been detained for a few hours, he has been put into a room in my residence, near to that occupied by the caresses of the Consulate. One case occurred in the winter of 1857, of a Maltese Doctor, accused of murder at Hama, and who was transferred by the Governor of that city to Damascus, as a prisoner; he was brought to the Consulate from the Turkish prison, and was detained in this Residence, at the demand of the Pasha, pending the examination of the case, which was needlessly protracted by repeated inquiries at Hamah. There was not the slightest credible evidence produced to inculpate him, but he was detained for some months in the Consulate to satisfy the Turkish authorities, not, however, under any restraint. At last the Pasha consented to his release, on his giving his word to appear whenever required. I have already stated that no fees have been ever exacted, but the Acting Consul, out of his private purse, maintained the Maltese Doctor after his own small resources were exhausted. While the British subjects in Damascus are in the same restricted numbers, and of the same class as at present, no prison is required, but were it requisite to imprison a malefactor, I should have no resource but to send him for safe custody to the public prison of the town. Some regulations should be made for the maintenance of prisoners who, were there any, must be at the charge of the Consul, as, I believe, they always have been. The police officers or guards at my disposal, are my *cavazes*. I consider, after this explanation, that it is unnecessary to return the sheet of queries, as a negative would be given to every query, save in the case of the Maltese Doctor.

I have, &c.
(Signed) J BRANT.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
LATTAKIA—							
1856	Civil and Criminal, Nil	Nil	Nil	In consequence of British products being always imported here from Beyrouth, and almost never directly from the United Kingdom, it is impossible to report their value correctly.	£	£	Nil
1857	"	"	"		Unregistered	Unregistered	"
1858	"	"	"		"	"	"
1859	"	"	"		"	"	"
1860	"	"	"		"	"	"
1861	"	"	"		"	"	"
1862	"	"	"		"	"	"
1863	"	"	"		"	"	"
1864	"	"	"		"	"	"
1865	"	"	"		"	2,300	"
1866	"	"	"		"	1,020	14,553
1867	"	"	"		"	3,500	9,167
1868	"	"	"		"	2,760	4,652
1869	"	"	"		"	10,700	6,447
1870	"	"	"		"	10,450	3,903
1871	"	"	"		"	Nil	Unregistered
1872	"	"	"		"	4,373	1,753
1873	"	"	"		"	3,437-10	3,178
1874	"	"	"		"	1,500	5,740
1875	"	"	"		"	4,000	873
						531-5	2,178
BOSNA SERAI—							
1856	Civil and Criminal, Nil	Nil	Nil	Nil	Nil	Nil	2
1857	"	"	"	"	"	"	4
1858	"	"	"	"	"	"	5
1859	"	"	"	"	"	"	5
1860	"	"	"	"	"	"	10
1861	"	"	"	"	"	"	12
1862	"	"	"	"	"	"	9
1863	"	"	"	"	"	"	5
1864	"	"	"	"	"	"	1
1865	"	"	"	"	"	"	1
1866	"	"	"	"	"	"	1
1867	"	"	"	"	"	"	2
1868	"	"	"	"	"	"	1
1869	"	"	"	"	"	"	1
1870	"	"	"	"	"	"	1
1871	"	"	"	"	"	"	2
1872	"	"	"	"	"	"	2
1873	"	"	"	"	"	"	2
1874	"	"	"	"	"	"	4
1875	"	"	"	"	"	"	4
BUCHAREST—							
1856	Civil and Criminal, 8	Nil	Nil	Nil	Nil	Nil	199
1857	28	"	"	"	"	"	195
1858	45	"	"	"	"	"	223
1859	22	1	"	"	"	"	223
1860	Nil	Nil	"	"	"	"	44
1861	"	"	"	"	"	"	Nil
1862	"	"	"	"	"	"	"
1863	"	"	"	"	"	"	"
1864	"	"	"	"	"	"	91
1865	1	"	"	"	"	"	9
1866	Nil	"	"	"	"	"	5
1867	"	"	"	"	"	"	5
1868	"	"	"	"	"	"	4
1869	"	"	"	"	"	"	9
1870	"	"	"	"	"	"	10
1871	1	"	"	"	"	"	11
1872	Nil	"	"	"	"	"	11
1873	"	"	"	"	"	"	11
1874	2	"	"	"	"	"	21
1875	1	"	"	"	"	"	11
							8
JASSY—							
1856	Civil and Criminal, Nil	Nil	Nil	Nil	Nil	Nil	91
1857	"	"	"	"	"	"	419
1858	"	"	"	"	"	"	218
1859	"	"	"	"	"	"	394
1860	"	"	"	"	"	"	34
1861	"	"	"	"	"	"	25
1862	"	"	"	"	"	"	29
1863	"	"	"	"	"	"	53
1864	"	"	"	"	"	"	6
1865	"	"	"	"	"	"	6
1866	"	"	"	"	"	"	6
1867	"	"	"	"	"	"	4
1868	"	"	"	"	"	"	3
1869	"	"	"	"	"	"	29

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
<i>JASSY—continued.</i>				£	£		
1870	Civil and Criminal, Nil	Nil	Nil	Nil	Nil	Nil	91
1871	.. ..	..	..	..	..	..	Nil
1872	.. ..	..	..	..	..	..	Nil
1873	.. ..	..	..	..	..	..	Nil
1874	.. ..	..	..	..	..	..	2
<i>CANEA (CRETE)—</i>							
1857	Civil, 44 .. Criminal, 22	Nil	Nil	7,928	2,100	1,703	111 1,851
1858	49 .. 8	..	..	2,786	11,500	1,360	135 1,575
1859	128 .. 29	..	..	5,000	Nil	382	60 1,600
1860	68 .. 15	..	..	2,000	11,420	1,171	76 1,490
1861	124 .. 22	..	..	Nil	Nil	287	84 1,820
1862	60 .. 10	..	..	..	5,400	713	54 1,240
1863	79 .. 8	..	..	10,000	Nil	559	69 1,520
1864	11 .. 2	..	..	820	5,236	413	81 Nil
1865	4 .. 2	..	..	9,093	Nil	1,824	84 ..
1866	3 .. Nil	..	..	1,700	..	120	45 ..
1867	5 .. ..	..	..	12,686	11,268	6,035*	54 ..
1868	4 .. ..	..	..	Nil	Nil	4,243	57 ..
1869	Nil .. 1	..	..	12,000	15,305	1,004	72 ..
1870	4 .. 8	..	..	Nil	28,568	788	62 ..
1871	Nil .. Nil	..	..	8,936	96,977	4,440	50 ..
1872	.. ..	..	..	100	6,888	225	55 ..
1873	.. ..	..	..	845	5,580	2,062	53 ..
1874	.. ..	..	..	10,079	18,095	1,596	60 ..
1875	.. ..	..	..	4,870	24,599	1,799	68 ..
<i>CANDIA—</i>							
1857	Civil and Criminal, Nil	Nil	Nil	Nil	Nil	Nil	Nil
1858	.. ..	..	..	..	..	..	..
1859	.. ..	..	..	..	..	..	45
1860	.. ..	..	..	..	6,080	..	58
1861	.. ..	..	..	..	Nil	..	53
1862	.. ..	..	..	..	2,100	58	59
1863	.. ..	..	..	..	Nil	208	65
1864	.. ..	..	..	..	..	Nil	11
1865	.. ..	..	..	..	..	..	10
1866	.. ..	..	..	..	..	..	8
1867	.. ..	..	..	..	11,268	255	10
1868	.. ..	..	..	..	Nil	Nil	11
1869	.. ..	..	..	..	2,500	557	12
1870	.. ..	..	..	..	Nil	Nil	14
1871	.. ..	..	..	..	..	..	15
1872	.. ..	..	..	..	..	..	18
1873	.. ..	..	..	..	..	..	20
1874	.. ..	..	..	..	..	..	22
1875	.. ..	..	..	..	36,500	587	24
<i>ERZERROOM (KOORDISTAN)—</i>							
1856	Civil and Criminal, Nil	Nil	Nil	Nil	Nil	Nil	Nil
1857	.. ..	..	..	..	..	..	..
1858	.. ..	..	..	..	..	..	..
1859	.. ..	..	..	..	..	..	..
1860	.. ..	..	..	..	..	..	..
1861	.. ..	..	..	..	..	..	..
1862	.. ..	..	..	..	..	..	..
1863	.. ..	..	..	..	..	..	2
1864	.. ..	..	..	..	..	..	..
1865	.. ..	..	..	..	..	..	..
1866	.. ..	..	..	..	..	..	..
1867	.. ..	..	..	..	..	..	..
1868	.. ..	..	..	..	..	..	..
1869	.. ..	..	..	..	..	..	..
1870	.. ..	..	..	..	..	..	..
1871	.. ..	..	..	..	..	..	..
1872	.. ..	..	..	..	..	..	..
1873	.. ..	..	..	..	..	..	..
1874	.. ..	..	..	..	..	..	..
1875	.. ..	..	..	..	..	..	1
<i>GALATZ—</i>							
1856	Civil and Criminal, 105	1	None	392,200	140,000	16,326	169†
1857	230 .. ..	..	..	295,300	230,000	15,283	185
1858	111	1	..	402,700	346,000	27,345	160
1859	162	1	..	397,000	185,500	32,259	176

* Imports consisted principally of Steam Coal for account of the Turkish Government.

† Ionian subjects are included until 1864, and the Value of Imports and Exports are approximate, but may be considered as correct as possible. The number of British subjects does not include women or children.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
	GALATZ—continued.					£	£		
1860	Civil and Criminal,	86	..	Nil	Nil	402,000	267,000	25,853	168
1861		85	..	"	"	466,000	272,000	19,533	272
1862		122	..	"	"	478,000	184,000	13,486	158
1863		103	..	1	"	520,000	301,000	13,633	371
1864		21	..	1	"	580,000	506,000	19,633	86
1865		10	..	"	"	529,000	322,000	17,133	18
1866		14	..	"	"	506,000	410,500	16,692	13
1867		5	..	"	"	471,580	398,000	39,323	17
1868		11	..	"	"	547,170	591,700	61,796	16
1869		11	..	"	"	473,000	450,000	85,518	26
1870		5	..	"	"	393,000	351,000	81,808	23
1871		6	..	"	"	629,000	490,500	55,211	25
1872		3	..	"	"	826,000	565,000	47,888	30
1873		17	..	"	"	590,500	440,000	35,202	21
1874		9	..	"	"	620,000	360,500	52,613	24
1875		6	..	"	"	570,000	470,000	28,911	30
	IBRAILA—								
1856	Civil and Criminal,	58	..	Nil	Nil	442,432	123,436	18,397	322*
1857		39	..	"	"	460,000	234,000	19,714	403
1858		21	..	"	"	490,000	285,000	31,743	349
1859		30	..	"	"	496,000	355,380	19,540	385
1860		22	..	"	"	519,200	483,000	33,321	364
1861		14	..	"	"	524,000	421,000	14,451	314
1862		9	..	"	"	681,200	385,300	11,521	404
1863		12	..	1	"	707,100	470,300	7,178	347
1864		3	..	"	"	788,800	930,500	15,222	12
1865		7	..	"	"	729,400	806,520	14,171	12
1866		4	..	"	"	580,000	821,200	21,586	13
1867		3	..	"	"	640,000	784,000	43,016	13
1868		2	..	"	"	734,000	1,126,500	93,187	12
1869		4	..	"	"	780,000	720,000	98,413	8
1870		1	..	"	"	670,000	594,000	67,165	6
1871		11	..	"	"	790,000	846,000	106,598	7
1872		10	..	1	"	576,000	625,000	87,459	9
1873		4	..	1	"	640,000	586,000	64,042	8
1874		6	..	"	"	685,000	507,000	63,026	11
1875		2	..	"	"	720,000	542,000	44,152	8
	JERUSALEM—								
1857	Civil, Nil	..	Criminal, 2†	Nil	Nil	No record	See return from Jaffa	See return from Jaffa	66‡
1858	"	..	1	"	"	"	"	"	No record
1859	"	..	Nil	"	"	"	"	"	"
1860	"	..	5	"	"	"	"	"	"
1861	"	..	7	"	"	"	"	"	"
1862	"	..	1	"	"	"	"	"	"
1863	Nil	..	Nil	"	"	About 16,000	"	"	33
1864	1	..	"	"	"	Nil	"	"	22
1865	1	..	"	"	"	18,000 to 20,000	"	"	29
1866	1	..	"	"	"	Nil	"	"	22
1867	Nil	..	"	"	"	24,000	"	"	18
1868	"	..	"	"	"	Nil	"	"	22
1869	"	..	"	"	"	"	"	"	20
1870	1	..	1	"	"	"	"	"	23
1871	1	..	1	"	"	25,500	"	"	21
1872	1	..	Nil	"	"	Nil	"	"	24
1873	Nil	..	"	"	"	35,000	"	"	19
1874	"	..	2	"	"	38,000	"	"	23
1875	2	..	2	"	"	Not yet ascertained	"	"	21
	JAFFA—								
1857	Civil and Criminal, Nil	..	..	Nil	Nil	1,400	24,635	18,000	Nil
1858	"	..	..	"	"	800	12,865	16,300	"
1859	"	..	..	"	"	1,020	16,600	1,491	"
1860	"	..	..	"	"	Nil	2,457	1,649	"
1861	"	..	..	"	"	"	3,560	2,516	"
1862	"	..	..	"	"	2,043	8,910	1,694	"
1863	"	..	..	"	"	5,364	25,620	6,740	51
1864	"	..	..	"	"	1,150	43,580	12,809	30

* Ionian subjects are included until 1864, and the Value of Imports and Exports are approximate, but may be considered as correct as possible. The number of British subjects does not include women or children.

† Besides these, there are on an average 20 Civil and Criminal cases a year between British subjects and protected Jews and Ottoman subjects, which are tried and decided at the local Turkish Courts where the Consul exercises a concurrent jurisdiction, and either personally or by deputy takes part in the trials.

‡ Exclusive of from 90 to 100 Russian Jews, being heads of families, who enjoy British protection in Jerusalem and Palestine, pursuant to an arrangement concluded in 1848 between the British and Russian Governments.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
JAFFA—continued.				£	£		
1865	Civil and Criminal, Nil	Nil	Nil	1,485	6,790	15,432	28
1866	"	"	"	7,940	3,185	3,784	22
1867	"	"	"	Nil	1,000	1,140	19
1868	"	"	"	"	18,040	2,040	Nil
1869	"	"	"	"	14,840	4,700	"
1870	"	"	"	"	6,175	2,756	"
1871	"	"	"	"	Nil	Nil	"
1872	"	"	"	680	9,509	1,073	26
1873	"	"	"	25,200	23,713	1,606	21
1874	"	"	"	27,000	21,235	1,847	21
RUSTCHUK—*							
1866	Civil, 1 .. Criminal, 1	Nil	Nil	Nil	Nil	Nil	47
1867	1 .. Nil	"	"	"	"	"	13
1868	1 .. "	"	"	"	"	"	26
1869	2 .. 1	"	"	"	"	"	31
1870	1 .. 1	"	"	"	"	"	42
1871	Nil .. Nil	"	"	"	"	"	32
1872	" .. "	"	"	"	"	"	44
1873	" .. 2	"	"	"	"	"	40
1874	1 .. 1	"	"	"	"	"	23
SULINA and TULTCHA—							
1857	Civil and Criminal, Nil	Nil	Nil	No record	No record	No record	No record
1858	"	"	"	"	"	"	"
1859	"	"	"	50,000	52,356	29,087	"
1860	"	"	"	30,000	541,295	40,087	"
1861	"	"	"	100,000	526,960	42,652	118
1862	"	"	"	30,000	103,842	7,692	127
1863	"	"	"	120,000	625,748	43,577	100
1864	"	"	"	90,000	776,955	57,563	59
1865	"	"	"	40,000	488,765	36,463	12
1866	"	"	"	52,365	693,306	51,356	16
1867	"	"	"	32,000	533,520	39,520	19
1868	"	"	"	36,000	601,033	44,521	23
1869	"	"	"	135,000	1,119,838	64,991	22
1870	"	"	"	40,300	640,188	35,566	29
1871	"	"	"	52,000	720,200	38,325	36
1872	"	"	"	42,500	580,250	34,231	31
1873	8	"	"	30,000	2,040,733	117,908	18
1874	15	"	"	40,000	637,380	96,098	13
KUSTENDJE—							
1860	Civil and Criminal, Nil	Nil	Nil	44,766	Nil	3,470	128
1861	"	"	"	20,276	30,167	11,500	132
1862	"	"	"	27,333	151,400	16,836	157
1863	"	"	"	13,501	537,021	27,354	149
1864	"	"	"	12,027	582,500	48,500	45
1865	"	"	"	8,117	997,750	46,063	46
1866	"	"	"	11,400	811,868	37,349	41
1867	"	"	"	4,017	676,600	24,416	40
1868	"	"	"	10,805	820,950	42,041	37
1869	1	"	"	25,650	1,200,000	27,809	42
1870	Nil	"	"	17,966	590,185	17,431	37
1871	"	"	"	14,187	537,193	27,872	37
1872	"	"	"	15,000	400,000	25,781	40
1873	"	"	"	2,400	14,500	18,404	34
1874	"	"	"	2,132	192,000	14,403	27
1875	"	"	"	4,700	48,000	13,672	23
VARNA—							
1866†	Civil and Criminal, Nil	Nil	Nil	164,960	71,129	11,295	17
1867	"	"	"	195,760	140,660	18,156	14
1868	"	"	"	96,000	69,684	14,425	16
1869	"	"	"	150,000	40,000	7,180	15
1870	"	"	"	117,127	39,352	27,723	12
1871	"	"	"	77,500	50,090	30,836	11
1872	"	"	"	25,200	36,846	16,638	9
1873	"	"	"	16,590	31,680	11,621	5
1874	"	"	"	16,920	2,058	3,303	6

* The Consulate of Rustchuk, the head-quarters of the Vilayet of the Danube, having been established in 1866, the Archives only commence that year. There is no British trade direct with Rustchuk, which is high up the Danube. All the trade between this Vilayet and Great Britain is carried on with the ports of Sulina, Kustendje, and Varna.

† The Archives of this Vice-Consulate commence in 1866.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
	SALONICA—					£	£		
1856	Civil, Nil	..	Criminal, 7	Nil	Nil	No returns	No returns	44,388	No returns
1857	"	..	5	"	"	"	"	22,280	153
1858	"	..	16	"	"	"	"	28,556	130
1859	"	..	1	"	"	"	"	22,765	125
1860	"	..	3	"	"	"	"	28,931	147
1861	"	..	Nil	"	"	"	"	12,859	72
1862	"	..	"	"	"	"	"	15,842	88
1863	"	..	"	"	"	"	"	12,108	69
1864	"	..	"	"	"	*23,874	*35,360	21,217	92
1865	"	..	"	"	"	57,915	74,011	11,440	27
1866	"	..	"	"	"	34,000	48,814	12,478	27
1867	1	..	"	"	"	29,380	81,525	13,442	20
1868	Nil	..	"	"	"	38,980	189,144	33,996	16
1869	"	..	"	"	"	122,324	199,636	57,495	19
1870	"	..	"	"	"	90,925	52,880	35,363	20
1871	2	..	"	2	"	86,820	40,532	40,223	21
1872	Nil	..	"	"	"	100,460	10,988	26,596	20
1873	2	..	"	"	"	305,000	13,000	45,872	46
1874	4	..	"	1	"	267,000	61,000	46,602	39
1875	5	..	"	1	"	Not known	Not known	46,509	41
to Nov. 24.								(Up to Nov. 24.)	
	CAVALLA—								
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Nil	No record	No record	No record
1857	"	..	..	"	"	"	"	"	"
1858	"	..	..	"	"	"	"	"	"
1859	"	..	..	"	"	"	6,145	198	10
1860	"	..	..	"	"	"	13,834	1,148	16
1861	"	..	..	"	"	"	12,350	756	17
1862	"	..	..	"	"	"	13,780	1,393	23
1863	"	..	..	"	"	"	7,200	281	23
1864	"	..	..	"	"	"	No record	No record	9
1865	"	..	..	"	"	"	"	"	2
1866	"	..	..	"	"	"	27,660	4,055	2
1867	"	..	..	"	"	"	16,430	803	2
1868	"	..	..	"	"	"	25,600	1,557	2
1869	"	..	..	"	"	"	13,615	778	No record
1870	"	..	..	"	"	"	7,638	825	"
1871	"	..	..	"	"	"	7,120	494	4
1872	"	..	..	"	"	"	Nil	Nil	Nil
1873	"	..	..	"	"	"	"	"	"
1874	"	..	..	"	"	"	1,450	664	8
	LARISSA AND VOLO—								
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Nil	Nil	Nil	102
1857	"	..	..	"	"	700	6,500	1,390	99
1858	"	..	..	"	"	270	4,850	381	97
1859	"	..	..	"	"	Nil	Nil	Nil	98
1860	"	..	..	"	"	120	1,850	265	90
1861	"	..	..	"	"	85	250	97	84
1862	"	..	..	"	"	40	2,125	734	86
1863	"	..	..	"	"	Nil	1,300	523	90
1864	"	..	..	"	"	130	1,100	408	11†
1865	"	..	..	"	"	210	3,200	1,362	13
1866	"	..	..	"	"	Nil	Nil	Nil	14
1867	"	..	..	"	"	"	4,150	2,140	14
1868	"	..	..	"	"	120	2,800	1,000	13
1869	"	..	..	"	"	Nil	3,200	1,688	14
1870	"	..	..	"	"	180	1,300	655	13
1871	"	..	..	"	"	1,200	1,150	219	13
1872	"	..	..	"	"	Nil	Nil	Nil	18
1873	"	..	..	"	"	4,000	8,977	1,148	19
1874	"	..	..	"	"	2,800	2,150	441	20
	PREVESA—								
1856	Civil and Criminal, Nil	..	..	Nil	Nil	Nil	3,076	545	Nil
1857	"	..	..	"	"	"	801	99	"
1858	"	..	..	"	"	"	Nil	Nil	"
1859	"	..	..	"	"	"	541	94	"
1860	"	..	..	"	"	"	Nil	Nil	"
1861	"	..	..	"	"	"	2,275	318	"
1862	"	..	..	"	"	"	5,405	707	"
1863	"	..	..	"	"	"	250	272	"
1864	"	..	..	"	"	"	1,600	160	2
1865	"	..	..	"	"	"	7,400	1,052	"

* The above only represents the Value of Imports and Exports by British vessels. The indirect trade with Great Britain is more considerable, but it is difficult to procure reliable estimates.

† After 1863 natives of the Ionian Islands ceased being under protection of the Vice-Consulate.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
PREVESA—continued.				£	£		
1866	Civil and Criminal, Nil	Nil	Nil	Nil	4,550	747	1
1867	" " " "	"	"	"	800	100	1
1868	" " " "	"	"	"	9,700	897	1
1869	" " " "	"	"	"	5,500	1,101	1
1870	" " " "	"	"	"	3,720	507	1
1871	" " " "	"	"	"	700	85	1
1872	" " " "	"	"	"	5,570	569	Nil
1873	" " " "	"	"	"	13,100	834	"
1874	" " " "	"	"	"	1,000	120	"
SCUTARI—							
1856	Civil and Criminal, Nil	Nil	Nil	There is no direct Import Trade from Great Britain.	There is no direct Export Trade to Great Britain.	Nil	Rules respecting Registration of British Subjects not yet in force.
1857	" " " "	"	"			"	
1858	" " " "	"	"			"	
1859	" " " "	"	"			"	
1860	" " " "	"	"			"	
1861	" " " "	"	"			"	
1862	" " " "	"	"			"	
1863	" " " "	"	"			"	
1864	" " " "	"	"			"	
1865	" " " "	"	"			"	
1866	" " " "	"	"			"	
1867	" " " "	"	"			"	
1868	" " " "	"	"			"	
1869	" " " "	"	"			"	
1870	" " " "	"	"			"	
1871	" " " "	"	"			"	
1872	" " " "	"	"			"	
1873	" " " "	"	"			"	
1874	" " " "	"	"			"	
1875	" " " "	"	"			"	
SMYRNA—*							
1856	Civil, Nil .. Criminal, 16	Nil	Nil	As no Commercial Reports were made during these years by this Consulate, no information can be given as to the Value of British Imports and Exports.	104,718	824	
1857	" " " 33	"	1			77,376	
1858	" " " 27	"	1			83,392	
1859	" " " 28	"	Nil			75,300	
1860	" " " 12	"	3 to Corfu			65,151	
1861	" 106 .. 23	"	Nil			72,258	
1862	" 227 .. 29	"	"			115,903	
1863	" 151 .. 41	"	"			119,077	
1864	" 43 .. 8	"	1			117,342	
1865	" 16 .. 13	"	1			115,713	
1866	" 21 .. 15	"	Nil			92,665	
1867	" 24 .. 14	Nil	"			117,544	
1868	" 9 .. 10	"	"			119,656	
1869	" 12 .. 21	"	"			123,323	
1870	" 6 .. 7	"	1			111,182	
1871	" 5 .. 9	"	1			124,850	
1872	" 9 .. 7	"	Nil			121,595	
1873	" 7 .. 9	"	"			123,030	
1874	" 12 .. 11	1	"			120,545	
1875	" " " "	"	"			"	
AIYALI—							
1856	Civil, 25 .. Criminal, Nil	Nil	Nil	Nil	4,087	532	Nil
1857	" 28 .. " "	"	"	"	754	280	"
1858	" 10 .. " "	"	"	"	766	284	"
1859	" 28 .. " "	"	"	"	2,700	210	"
1860	" 26 .. " "	"	"	"	Nil	Nil	"
1861	" 36 .. " "	"	"	"	9,681	270	"
1862	" 24 .. " "	"	"	"	Nil	Nil	"
1863	" 22 .. " "	"	"	"	"	"	"
1864	" 1 .. " "	"	"	"	"	"	"
1865	" Nil .. " "	"	"	"	"	"	"
1866	" " " "	"	"	"	"	"	"
1867	" " " "	"	"	"	"	"	"
1868	" 4 .. " "	"	"	3,848	"	339	"
1869	" 3 .. " "	"	"	6,400	16,857	1,971	"
1870	" 4 .. " "	"	"	Nil	6,301	153	"
1871	" 3 .. " "	"	"	"	29,603	880	"
1872	" 2 .. " "	"	"	300	Nil	132	"
1873	" 2 .. " "	"	"	Nil	"	Nil	"
1874	" 1 .. " "	"	"	"	"	"	"

* *Civil Cases.*—Not including bankruptcies, grants of probate and administration, the many petty cases settled amicably in Court, nor the claims of British subjects against Foreigners and Ottoman subjects.

Criminal Cases.—Not including cases settled in Court amicably, and of which no note is kept.

British Subjects.—The number of British subjects registered to 1864 included Ionian citizens. British subjects residing at Smyrna number in all about 600 adults (male and female) and 400 children.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.		Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
MITYLENE—					£	£		
1856	Civil, Nil ..	Criminal, Nil	Nil	Nil	1,843	Nil	130	80
1857	" "	" "	" "	" "	74,500	" "	608	78
1858	39 ..	" "	" "	" "	Nil	" "	Nil	80
1859	21 ..	" "	" "	" "	" "	" "	" "	75
1860	1 ..	" "	" "	" "	" "	" "	" "	80
1861	84 ..	" "	" "	" "	" "	" "	" "	77
1862	42 ..	" "	" "	" "	550	12,500	792	80
1863	Nil ..	" "	" "	" "	Nil	Nil	Nil	Nil
1864	" "	" "	" "	" "	" "	1,000	190	" "
1865	" "	" "	" "	" "	" "	Nil	Nil	" "
1866	" "	" "	" "	" "	4,000	" "	140	" "
1867	" "	" "	" "	" "	120	100	202	" "
1868	" "	" "	" "	" "	Nil	Nil	Nil	" "
1869	" "	" "	" "	" "	3,200	" "	300	" "
1870	" "	" "	" "	" "	2,160	19,000	1,509	" "
1871	" "	" "	" "	" "	2,800	7,000	626	" "
1872	" "	" "	" "	" "	Nil	4,500	127	" "
1873	" "	" "	" "	" "	1,000	5,800	826	" "
1874	" "	" "	" "	" "	Nil	Nil	Nil	" "
SCALA NUOVA—								
1856	Civil and Criminal, Nil ..		Nil	Nil	573	38,223	4,084	25
1857	" "	" "	" "	" "	2,538	50,998	5,839	26
1858	" "	" "	" "	" "	6,182	27,736	4,603	25
1859	" "	" "	" "	" "	1,820	7,690	735	25
1860	" "	" "	" "	" "	3,328	47,437	3,225	25
1861	" "	" "	" "	" "	Nil	84,427	5,585	28
1862	" "	" "	" "	" "	" "	5,090	260	27
1863	" "	" "	" "	" "	" "	9,910	1,485	29
1864	" "	" "	" "	" "	" "	12,227	1,462	27
1865	" "	" "	" "	" "	" "	3,590	997	9
1866	" "	" "	" "	" "	" "	8,182	190	8
1867	" "	" "	" "	" "	" "	16,100	1,898	9
1868	" "	" "	" "	" "	" "	9,355	1,652	8
1869	" "	" "	" "	" "	" "	3,636	475	8
1870	" "	" "	" "	" "	" "	7,637	468	7
1871	" "	" "	" "	" "	" "	7,182	465	8
1872	" "	" "	" "	" "	" "	328	282	8
1873	" "	" "	" "	" "	" "	6,273	1,541	9
1874	" "	" "	" "	" "	" "	13,082	2,994	6
SCIO AND TCHESMÉ—								
1856	Civil, Nil ..	Criminal, 6	Nil	Nil	10,900	16,050	2,559	189
1857	29 ..	1	" "	" "	3,000	14,500	1,822	216
1858	38 ..	2	" "	" "	6,400	15,286	1,736	229
1859	44 ..	13	" "	" "	36,700	36,800	2,737	243
1860	54 ..	4	" "	" "	9,000	16,000	1,798	256
1861	48 ..	7	" "	" "	1,018	11,900	812	262
1862	51 ..	Nil	" "	" "	47,500	47,500	1,729	267
1863	168 ..	" "	" "	" "	500	8,500	470	220
1864	58 ..	" "	" "	" "	1,000	1,000	750	76
1865	22 ..	" "	" "	" "	Nil	Nil	1,500	38
1866	12 ..	" "	" "	" "	" "	" "	Nil	31
1867	14 ..	" "	" "	" "	" "	" "	511	27
1868	15 ..	" "	" "	" "	10,000	15,060	7,560	25
1869	Nil ..	" "	" "	" "	64,860	82,324	28,096	19
1870	" "	" "	" "	" "	68,637	36,748	10,808	23
1871	" "	" "	" "	" "	41,679	90,250	22,158	23
1872	" "	" "	" "	" "	83,126	102,968	27,475	23
1873	" "	" "	" "	" "	31,300	75,660	22,654	23
1874	" "	" "	" "	" "	34,264	113,912	35,333	23
ALEXANDRIA (EGYPT)—								
1856	Civil, 58 ..	Criminal, 189	Nil	Nil	Nil	Nil	191,928	2,334
1857	51 ..	80	" "	" "	" "	" "	165,733	2,258
1858	56 ..	43	1	" "	1,300,000	2,430,000	232,847	2,269
1859	64 ..	45	1	" "	Nil	Nil	252,850	2,277
1860	60 ..	28	1	" "	" "	" "	260,771	2,288
1861	55 ..	24	3	" "	" "	" "	285,510	2,349
1862	64 ..	50	Nil	" "	" "	" "	431,777	2,299
1863	166 ..	220	" "	" "	" "	" "	439,335	1,795
1864	124 ..	326	1	1	2,498,000	8,770,000	580,502	888
1865	194 ..	375	Nil	4	Nil	Nil	684,492	834
1866	281 ..	495	2	12	2,495,590	6,737,980	569,446	688
1867	308 ..	382	2	39	2,600,000	5,900,000	629,258	613
1868	287 ..	242	2	39	2,500,000	7,500,000	632,591	1,154
1869	271 ..	389	6	30	2,700,000	6,320,000	659,953	1,496
1870	275 ..	320	2	29	3,000,000	6,000,000	599,995	1,854
1871	280 ..	345	3	21	3,500,000	8,700,000	596,662	2,315
1872	221 ..	314	1	32	2,700,000	6,300,000	656,478	1,939
1873	145 ..	144	5	24	Nil	Nil	768,608	2,093
1874	294 ..	283	1	13	" "	" "	756,308	2,780
1875	223 ..	151	3	4	" "	" "	482,447	2,191

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
CAIRO—									
1856	† Civil, Nil	..	Criminal, 5	†	Nil	£	£	\$	865
1857	"	"	10		"				975
1858	"	"	12		"				1,114
1859	"	"	13		1				1,111
1860	"	"	10		Nil				819
1861	"	"	17		2				1,057
1862	"	"	27		Nil				1,084
1863	49	..	29		Nil				612
1864	23	..	35		"				255
1865	21	..	33		1				302
1866	42	..	24	Nil	2	£	£	\$	360
1867	20	..	13	1	Nil				301
1868	35	..	18	Nil	6				329
1869	35	..	32	"	2				387††
1870	43	..	28	"	Nil				389
1871	42	..	29	"	"				393
1872	43	..	29	"	"				412
1873	26	..	23	"	"				330
1874	38	..	51	"	2				350
1875	58	..	41	"	1				368
PORT SAID—									
1872§§	Civil, Nil	..	Criminal, 2	Nil	Nil	300,000	127,500	894,814	18
1873	"	"	"	"	"	320,000	120,000	1,054,999	37
1874	9	..	25	"	"	360,000	12,000	1,274,594	73
SUEZ—|||									
1856 to 1859 }	Civil, Nil	..	Criminal, Nil	Nil	Nil	Unknown	Unknown	Unknown	Nil
1860	1	..	"	"	"	"	"	"	"
1861	Nil	..	1	"	"	"	"	"	"
1862	"	..	Nil	"	"	"	"	"	"
1863	1	..	"	"	"	"	"	"	111
1864	1	..	"	"	"	"	"	"	94
1865	Nil	..	"	"	"	"	"	"	63
1866	3	..	2	"	"	"	"	"	106
1867	4	..	2	"	"	"	"	"	150
1868	13	..	7	"	3	Nil	Nil	Nil	260
1869	13	..	6	"	Nil	"	"	"	194
1870	31	..	10	"	"	"	"	"	176
1871	9	..	8	"	"	"	"	164,145	143
1872	5	..	4	"	"	"	"	181,422	113
1873	10	..	4	"	"	"	"	248,120	108
1874	5	..	3	"	"	"	"	337,524	102
1855	3	..	2	"	"	"	"	370,000††	101
TRIPOLI IN BARBARY—									
1856 to 1861 }	Civil, Nil	..	Criminal, Nil	Nil	Nil	Nil	Nil	Nil	Nil
1862	"	..	"	"	"	"	"	1,063	"
1863	"	..	"	"	"	"	"	4,209	"
1864	"	..	"	"	"	"	"	5,052	345
1865	18	..	52	"	"	30,000	28,000	6,228	263

* These numbers may be perhaps included in the returns from Alexandria.

† The returns of Civil Suits since the year 1862 are given, but such returns cannot be made previous to the year 1863, as the Archives of earlier years have either not been preserved or are in confusion.

‡ The Imports and Exports of Cairo are included in the returns from Alexandria and Suez.

§ Cairo being an inland town, no returns can be given under this head.

|| In these figures are included Ionians, protégés, and persons who had no Consul at Cairo.

†† This number includes females and Ionian citizens, whose registration was compulsory in 1863.

*** The Imports and Exports of Cairo are included in the returns from Alexandria and Suez.

††† Cairo being an inland town, no returns can be given under this head.

‡‡ This number includes females and Ionian citizens, whose registration was compulsory in 1863.

§§ No record prior to November, 1873.

||| Extract from despatch from Consul West to Earl of Derby, dated December 24, 1875:—

"The trials of cases at Suez for several years after my first appointment resolved themselves simply into endeavours to promote reconciliation between the parties, of which no records were kept. I have found it impossible to ascertain the value of British Imports and Exports, as the Customs records are sent at the end of every month to Alexandria to be kept at the Divan of Statistical Records, whence alone such information is obtainable; I may however state, that prior to the opening of the Maritime Canal no direct trade existed between Suez and ports in the United Kingdom, and that, although a certain amount of trade in the produce of India was carried on, it was so chiefly via Jeddah, and the goods were so mixed up with the produce of the Hegaz and Abyssinia that it would be impossible to form an estimate of the real importance of the trade. No record was kept of the tonnage of British vessels coming to Suez until after the opening of the Isthmus Canal, since which time it has gradually increased, and is this year double what it was in the year 1872. The number of registered British subjects is far short of the total number of British residents at Suez, as not only the Staff of the Transport Service, but all persons drawing pay from Her Majesty's Government, are held to be exempt from registration, and many of the Maltese evade the tax."

††† This number is approximate only.

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.			Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
	TRIPOLI IN BARBARY— <i>contd.</i>					£	£		
1866	27	..	53	Nil	Nil	32,000	35,000	4,006	267
1867	33	..	34	"	"	35,000	33,000	5,121	262
1868	14	..	19	"	"	38,000	50,000	4,557	211
1869	20	..	12	"	"	40,000	56,000	3,258	186
1870	17	..	23	"	"	57,000	78,000	6,588	172
1871	5	..	9	"	"	61,000	90,000	14,936	156
1872	11	..	8	"	"	53,000	65,000	14,440	160
1873	10	..	9	"	"	49,000	87,100	12,978	149
1874	9	..	15	"	"	81,000	215,500	38,124	136
1875	21	..	34	"	"	96,000	240,500	64,182	196
	BENGAZI—								
1856	Civil, Nil	..	Criminal, Nil	Nil	Nil	Nil	Nil	1,085	119
1857	"	..	"	"	"	"	"	692	101
1858	"	..	"	"	"	"	"	690	80
1859	"	..	"	"	"	"	"	693	Nil
1860	"	..	"	"	"	"	"	740	230
1861	"	..	"	"	"	"	"	3,509	252
1862	1	..	11	Nil	Nil	Nil	Nil	381	Nil
1863	2	..	12	"	"	"	"	301	"
1864	14	..	9	"	1	"	"	2,789	325
1865	5	..	8	"	1	"	"	3,055	318
1866	1	..	11	"	2	"	"	3,197	314
1867	3	..	5	"	Nil	"	"	4,110	Nil
1868	7	..	10	"	"	"	"	No return	"
1869	5	..	6	"	"	"	"	"	372
1870	3	..	8	"	1	"	"	4,564	353
1871	2	..	1	"	Nil	"	"	4,459	Nil
1872	7	..	5	"	"	"	"	4,075	409
1873	3	..	11	"	1	"	"	5,898	Nil
1874	2	..	5	"	Nil	"	"	5,005	259
	TUNIS—								
1856	Civil and Criminal, 48	..	..	Nil	Nil	154,862	100,558	11,721	Nil
1857	166	..	..	"	"	112,164	67,433	13,308	"
1858	300	..	..	"	"	119,000	105,000	10,820	"
1859	83	..	..	"	"	149,650	120,422	7,601	"
1860	238	..	..	"	"	131,020	117,990	10,841	"
1861	416	..	..	"	"	157,748	99,021	11,550	"
1862	209	..	..	"	"	140,182	124,450	10,184	"
1863	407	..	..	"	"	120,764	109,307	16,250	"
1864	184	..	..	"	"	119,250	98,438	13,408	936
1865	158	..	..	"	"	148,945	177,557	21,216	614
1866	149	..	..	"	4	101,644	80,456	22,087	642
1867	161	..	..	"	Nil	95,240	76,986	21,036	367
1868	421	..	..	"	"	156,809	72,360	25,487	186
1869	227	..	..	"	3	150,160	80,500	21,692	496
1870	817	..	..	1	Nil	128,020	114,070	25,581	478
1871	632	..	..	Nil	4	129,322	91,266	28,456	485
1872	444	..	..	"	Nil	142,281	70,475	28,253	503
1873	455	..	..	"	3	233,724	63,422	24,868	465
1874	393	..	..	1	8	310,811	86,860	29,804	510
	MEHDIA—								
1856	Civil and Criminal, Nil	..	..	Nil	Nil	411	210	285	Nil
1857	"	..	..	"	"	525	411	235	"
1858	"	..	..	"	"	407	310	235	"
1859	"	..	..	"	"	320	653	215	"
1860	"	..	..	"	"	937	567	253	"
1861	"	..	..	"	"	780	350	291	"
1862	"	..	..	"	"	550	450	300	"
1863	"	..	..	"	"	730	225	225	"
1864	"	..	..	"	"	925	450	325	142
1865	"	..	..	"	"	850	300	250	125
1866	2	..	..	1	"	600	250	330	101
1867	2	..	..	4	"	875	1,025	495	117
1868	1	..	..	7	"	400	270	480	117
1869	Nil	..	..	2	"	245	900	345	118
1870	1	..	..	2	"	660	11,628	764	115
1871	Nil	..	..	7	"	1,000	5,652	1,218	114
1872	2	..	..	3	"	300	17,514	1,426	114
1873	1	..	..	4	"	25	11,055	504	114
1874	Nil	..	..	5	"	75	32,745	2,726	116

Year.	Civil and Criminal Cases tried in each year since 1856, before the Consular Court.	Cases sent as Appeals to Supreme Consular Courts.	Number of Prisoners sent in each year to Malta for Punishment.	Value of British Imports.	Value of British Exports.	Tonnage of British Ships.	Number of Registered British Subjects residing in Consular District.
	SUSA—			£	£		
1857	Civil and Criminal, 19	6	Nil	6,435	8,910	5,820	Nil
1858	20	4	"	6,710	22,635	3,908	"
1859	17	6	"	14,655	30,128	7,358	"
1860	23	8	"	16,945	52,655	7,218	"
1861	33	3	"	10,790	34,152	6,296	"
1862	13	3	"	10,320	31,500	4,948	"
1863	18	4	"	7,960	24,610	4,096	"
1864	19	2	"	16,500	51,180	5,940	98
1865	17	4	"	16,720	57,875	4,692	73
1866	23	3	"	19,320	20,700	3,920	58
1867	27	4	1	30,528	32,720	5,028	55
1868	28	5	"	12,490	13,250	3,668	42
1869	14	4	"	38,306	12,992	7,018	43
1870	29	3	"	29,400	46,502	10,307	35
1871	36	8	1	27,786	31,490	6,949	41
1872	53	11	Nil	15,656	34,989	23,832	55
1873	56	12	2	14,810	61,295	28,496	67
1874	51	14	Nil	18,839	49,635	23,124	65
1875	54	8	"	Nil	Nil	Nil	67

CONSULAR. No. 5 (1875).

RETURN of Civil and Criminal Cases tried in the
Consular Courts in the Ottoman Dominions :
1856-75.

*Presented to the House of Commons by Command of
Her Majesty, in pursuance of their Address dated
August 9, 1875.*

TURKEY. / No. 1 (1875).

FURTHER CORRESPONDENCE

RESPECTING THE

OTTOMAN LOAN OF 1862.

(In continuation of Papers presented to Parliament in August 1874.)

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

PRINTED BY HARRISON AND SONS.

[C —1127. Price 1d.]

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Further Correspondence respecting the Ottoman Loan of 1862.

No. 1.

Mr. Franklin to the Earl of Clarendon.—(Received June 21.)

*London Institution, Finsbury Circus, E.C.,
June 20, 1866.*

My Lord,

WITH reference to Mr. Hammond's letter delivered this morning, on the subject of the Anglo-Turkish Loan of 1862, and to the statement "that Her Majesty's Government continues to decline all responsibility with regard to the payment of the interest of the loan in question," I beg leave once again to repeat that no claim has through me been made upon Her Majesty's Government in that pecuniary sense. The responsibility or obligation relied upon is that indicated from Hansard, 31st March, 1862:—

"We contributed to this loan owing to the encouragement which you gave us for the fulfilment of our expectations."

Mr. Layard, Under Secretary for Foreign Affairs, had just before (March 14, 1862) set forth in Parliament what had been done by Agents in Her Majesty's service "to show the Turkish Government how they could remedy the present state of things and regulate their finance so as to restore an equilibrium between revenue and expenditure," and then (on the eve of subscriptions being invited to this loan) he announced that those Agents had prescribed Government monopolies of tobacco and salt, and proclaimed confidence in the regular payment of "dividends on foreign debts to the day."

The letter of Earl Russel, then Foreign Secretary, written to promote the loan, was dated on the following day (15th March, 1862), and published, with his sanction, together with a Circular canvassing subscriptions on the merits of "a special feature, that it is under the direct cognizance and favour of the British Government."

Hence the (then) premonitory declaration quoted from Hansard.

The object of all representations made through me has been respectfully to indicate means whereby the expectations encouraged by Her Majesty's Government may be saved from non-fulfilment, provided that due precautions be taken against interception or misapplication of the more than ample revenues pledged to the bondholders specifically.

I have, &c.

(Signed) J. A. FRANKLIN.

P.S.—Mr. Hammond's letter of the 12th instant was communicated on the morning of its receipt, and, for obvious reasons, before business hours to the Secretary of the Stock Exchange. It contains no allusion to "responsibility, nor, in my humble judgment, anything else which there can be a desire to qualify. The letter just received and replied to above would mislead if published by itself. I respectfully submit, therefore, that it should only appear in its context, or as part of the entire correspondence commencing August 28, 1865.

I hope to receive later intelligence from the Foreign Office as occasion serves, not desiring to publish anything unless with permission.

J. A. F.

No. 2.

Mr. Hammond to Mr. Franklin.

Sir,

Foreign Office, August 11, 1866.

I AM directed by Lord Stanley to acknowledge the receipt of your letter of the 9th instant, and, in reply, I am to remind you, with reference to the assurance which you state you hope to receive on the subject of the Turkish Loan of 1862, that you were distinctly informed in my letter of the 18th of June last that Her Majesty's Government decline all responsibility with regard to the payment of the interest of the loan in question; Lord Lyons will, however, not fail to advise the Porte to observe its engagements, but Her Majesty's Government cannot be responsible if the Porte from any cause neglects to do so.

I am, &c.
(Signed) E. HAMMOND.

No. 3.

Lord Stanley to Lord Lyons.

My Lord,

Foreign Office, August 13, 1866.

THE Turkish Ambassador called upon me this afternoon, and offered explanations on the subject of the delay that had occurred in paying the interest of the Guaranteed Debt.

He said that the Porte had given the necessary order to its bankers, who in consequence of some misunderstanding had failed to comply with it, but that arrangements had been subsequently made with the Ottoman Bank. These, however, involved a certain loss of time, and hence the delay that had occurred.

I expressed my conviction that whatever might be the precise nature of the causes that had led to a delay in payment, they were not, and could not be, considered as any indication of unwillingness on the part of the Porte to fulfil its international engagements.

I think it, however, desirable that you should call the serious attention of the Porte to the injurious effect on Turkish credit which a repetition of any such irregularity in the remission of funds for the payment of the interest and sinking fund on the guaranteed loan more especially, but generally also on its other loans, must necessarily have; and your Excellency will urge the Turkish Minister to make timely provision for meeting its engagements; which, as regards the guaranteed loan, ought to be done by payment into the Bank of England on or before the 25th of June and 25th of December of each year of the sum required to defray the charges on the loan for the half year then about to expire.

I am, &c.
(Signed) STANLEY.

No. 4.

Mr. Franklin to Lord Stanley.—(Received August 15.)

*London Institution, Finsbury Circus, E.C.,
August 14, 1866.*

My Lord,

I CRAVE permission to refer to my letter, addressed 20th June last, to Lord Clarendon, your Lordship's immediate predecessor, wherein were justified the claims of the Anglo-Turkish Bondholders of 1862 to the sustained protection of Her Majesty's Government—claims which, in effect, have heretofore been recognized. Those bondholders have not pretended to rank as claimants upon the British Treasury in common with the Anglo-French (4 per cent. guaranteed) bondholders; nevertheless, they would be entitled, in case of need, to official services at least as effective as those whereby funds are understood to have been just now secured for paying off the last drawn bonds of the 4 per cent. loan.

At this crisis in Turkish finance the interests of preference creditors, to whom has been assigned the exceptional position of the 1862 bondholders, need to be vigilantly protected at the Porte; and how otherwise than by instrumentality of their own Government under whose favour and encouragement (as avowed for political reasons) that loan was devised and floated.

Your Lordship's assurance that Lord Lyons will not fail to advise the Porte to observe its engagements, implies of necessity the requirement to discriminate between its dissimilar engagements.

These include, *inter alia*, Turkish stocks and other obligations issuable without restriction, the holders of which are clamorous against any such discrimination; and besides those, the demands of powerful and urgent creditors in a position almost to dictate to a necessitous Administration. The allied Governments of England and France (in respect of their guarantee on the 4 per cent. loan) being assumed to rank in the latter category, how excellent might be an example set by them of procuring the periodical attestation of the proceeds and appropriations of Turkish revenues distinctively, and as exhibiting due respect to the rights of weaker creditors!

If any change of policy, on the part of Her Majesty's present advisers, should abandon the financial field at Constantinople to the proverbial activity of French Ministers for the advantage of French creditors, great injury could result to the bondholders of 1862, as assignees of the tobacco, salt, and stamp revenues. Had Parliament not been in recess (the convenience of the Foreign Office first consulted) papers might have been moved for in a manner to avert from a small section of Her Majesty's subjects the whole cost of any change in policy intended for the advantage of all.

If, and whenever it shall be in your Lordship's power, and not inconvenient to the public service, to give re-assurance to those whose interests I advocate, it is hoped that such opportunities will not be lost.

I have, &c.
(Signed) J. A. FRANKLIN.

No. 5.

Mr. Egerton to Mr. Franklin.

Sir, *Foreign Office, August 16, 1866.*
I AM directed by Lord Stanley to acknowledge the receipt of your letter of the 14th instant, containing observations respecting the Turkish Loan of 1862.

I am, &c.
(Signed) E. C. EGERTON.

FURTHER CORRESPONDENCE respecting the
Ottoman Loan of 1862.

(In continuation of Papers presented to Parliament
in August 1874.)

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1875.*

LONDON:

PRINTED BY HARRISON AND SONS.

4465
TURKEY. No. 2 (1875).

FURTHER CORRESPONDENCE

RESPECTING THE

OTTOMAN LOAN OF 1862.

(In continuation of Papers presented to Parliament, February 5, 1875 : C. 1127.)

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

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Further Correspondence respecting the Ottoman Loan of 1862.

No. 1.

Mr. Franklin to the Earl of Derby.—(Received December 17.)

My Lord, *London Institution, Finsbury Circus, December 14, 1874.*

I BEG leave respectfully to call attention to omissions from the correspondence recently laid before Parliament, *e.g.* :—

J. A. Franklin to the Earl of Clarendon, June 20, 1866 ;

J. A. Franklin to Lord Stanley, August 14, 1866.

Those letters (copies of which are inclosed herein) are considered to contain observations needful to a just appreciation by Parliament of the following points :—

The part originally taken by Her Majesty's Government in inducing subscriptions to the loan.

The recognition accorded by Her Majesty's Government in 1855 and 1866 to the claims of bondholders for championship and protection of their interests.

The later relaxation of those services, and the withholding of subsidiary services which might have secured the bondholders' just requirements.

The bondholders' ignorance until now of incidents and information which, if known at the time, might have been utilized.

There is once again reason to believe that further development of the tobacco revenues is contemplated. Your Lordship's attention is, therefore, recalled to "Regulations adopted by the Council of Ministers, and sanctioned by His Imperial Majesty the Sultan," so far back as September 1866. (*Vide* Lord Lyons' letter No. 20 of the published series.) It is believed that, had those Regulations been dealt with as proposed by my letter which was acknowledged by No. 25 of the series, subsequent difficulties might have been avoided.

I am encouraged even now to suggest a mode of adapting those Regulations (and notably clause 5) to present practice of the Imperial Ottoman Bank in respect of the 1862 Loan, as a mode which, promptly acted upon, could remove certain misgivings of the bondholders frequently indicated, respect the susceptibilities of the Ottoman Government as to interposition by third parties, and at same time spare any immediate occasion to provoke further discussion in Parliament.

The "Times" of 12th instant (page 8, column 4) contains an attested notification of the funds in hand on 30th November ultimo for interest and sinking fund, distributable on 1st January, 1875.

Let the London Establishment of the Imperial Ottoman Bank undertake to give its own acceptances from month to month, *i.e.*, January to May inclusive, and July to November inclusive, for the instalments consecutively ; such acceptances to become due for payment in London at the half-yearly date proscribed by the bonds.

The amount of bonds so to be provided for, the suitable custodes for the acceptances, and other matters of detail, may be concerted with such *bonâ fide* bondholders as shall signify their satisfaction therewith.

There is warrant to believe that the cited Regulations will enable his Excellency Musurus Pasha to give effect to the suggested arrangement with the London Directors of

the Bank without delay for reference to Constantinople; and your Lordship is respectfully prayed to urge the proposition upon his Eminence accordingly.

I have, &c.
(Signed) J. A. FRANKLIN

No. 2.

Lord Tenterden to Mr. Franklin.

Sir,

Foreign Office, January 5, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 14th ultimo, calling attention to your letters of the 20th of June and 14th of August, 1866, which had been omitted from the correspondence respecting the Ottoman Loan of 1862, recently laid before Parliament; and I am to inform you, in reply, that the letters in question will be published and laid before Parliament.

I am, &c.
(Signed) TENTERDEN.

No. 3.

Mr. Franklin to the Earl of Derby.—(Received January 11.)

My Lord,

London Institution, Finsbury Circus, January 8, 1875.

IN acknowledging receipt of Mr. Bourke's letter dated 5th instant, which intimates that certain letters omitted from the published correspondence respecting this loan will be laid before Parliament, I beg leave to indicate another like omission of my letter dated 6th June, 1866, notwithstanding that No. 12, page 33, of the published correspondence acknowledges receipt of that missing letter.

It is, moreover, discovered that the signature attributed to letter No. 3 of the printed series is that of "E. Hammond," whereas the original bears the signature of "A. H. Layard." The discrepancy may be regarded as so far material that Mr. Layard was the officer of Her Majesty's Government, more immediately privy to the representations which induced our subscriptions to the loan.

Vide (in Hansard) Mr. Hubbard's warning on that head, and, *inter alia*, his reference to the circular issued, together with the prospectus by the brokers for the loan.

It is assumed that the suggestions contained in the latter portion of my letter to your Lordship dated 14th December last, have not been overlooked, although not referred to by Mr. Bourke's letter of the 5th January instant.

I have, &c.
(Signed) J. A. FRANKLIN.

No. 4.

Mr. Bourke to Mr. Franklin.

Sir,

Foreign Office, January 16, 1875.

I AM directed by the Earl of Derby to reply to your letter of the 8th instant, in which you state that your letter of the 6th of June, 1866, upon the subject of the Ottoman Loan of 1862, although acknowledged by the letter from this Office of the 8th of the same month, does not appear among the papers recently laid before Parliament.

I am to request that you will turn to page 32 of the print, where you will find the paper in question.

With regard to the suggestions respecting the London Branch of the Imperial Ottoman Bank contained in your letter of the 14th ultimo, I am to repeat to you that Her Majesty's Government cannot interfere officially in the matter of this loan, or make any diplomatic representation either to the Ottoman Ambassador in London or to the Porte upon the subject.

I am, &c.
(Signed) ROBERT BOURKE.

Mr. Franklin to the Earl of Derby.—(Received January 22.)

My Lord,

London Institution, Finsbury Circus, January 20, 1875.

I HAVE thankfully to acknowledge Mr. Bourke's letter of the 16th instant, wherein is indicated the publication of a paper which I had overlooked, and wherein there is also notice of a point in my letter to your Lordship, dated 14th December, 1874, which had apparently been overlooked, until attention had been recalled thereto.

I am now informed that the suggestion in my said letter could not be dealt with in manner technically described; but, inasmuch that I had not assumed to prescribe the manner or form in which the suggestion should be commended to notice of the Turkish Government or its Agents, there remains little doubt that the object in view will prove to have been effected, as heretofore, by instructions to Her Majesty's Minister at Constantinople, or otherwise, consistently with the former action of Her Majesty's Government, *vide* instructions of Earl Russell to Sir H. Bulwer, 1st September, 1865; *vide* also letter of Sir H. L. Bulwer to Aali Pasha, dated Constantinople, July 27, 1863.

This last-named letter (in page 24 of the published correspondence), concerns especially the 1858 Loan; but the claims of the 1862 Bondholders, arising out of action of Her Majesty's Government, and recognized by its then representative Earl Russell, are, as frequently shown in course of this correspondence, much more direct and obvious.

The publication of this correspondence in its entirety, cannot but afford evidence of the many opportunities—the last of which is even now apparently passing away—which opportunities, suitably followed up, might have averted breach of faith by the Ottoman Government, and saved the Government of Her Majesty from the iteration of these remonstrances.

I have, &c.
(Signed) J. A. FRANKLIN.

Mr. Bourke to Mr. Franklin.

Sir,

Foreign Office, January 28, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 20th instant, upon the subject of the Anglo-Turkish Loan of 1862; and in reply I am to state to you that his Lordship can take no further steps in this matter.

I am, &c.
(Signed) ROBERT BOURKE.

FURTHER CORRESPONDENCE respecting the
Ottoman Loan of 1862.

(In continuation of Papers presented to Parliament,
February 5, 1875 : C. 1127.)

*Presented to both Houses of Parliament by Com-
mand of Her Majesty.* 1875.

LONDON:

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TURKEY. No. 3 (1875).

FURTHER CORRESPONDENCE

RESPECTING THE

OTTOMAN LOANS OF 1858 & 1862.

(In continuation of Papers presented to Parliament, March 2, 1875: C. 1163.)

Presented to the House of Lords by Command of Her Majesty.
1875.

LONDON:

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Further Correspondence respecting the Ottoman Loans of 1858 and 1862.

No. 1.

Mr. Franklin to the Earl of Derby.—(Received February 16.)

My Lord, *London Institution, Finsbury Circus, February 15, 1875.*

THE opportune production of your Lordship's despatch to Lord Lyons, dated 13th August, 1866, will enable Parliament to appreciate the exceptional character of the claims represented in this correspondence, as contradistinguished from the endless diversity of foreign loans which may or may not be referred to in discussion upon Sir Henry James' motion on the 23rd instant.

The correspondence has rendered manifest that your Lordship's predecessors in office, notably those who had been parties to objects of the loan, had recognized the claims of the bondholders to interposition on their behalf. (*Vide* despatch of the Earl of Clarendon to Lord Lyons, dated 16th May, 1866, and its significant inclosures; *vide* also the despatch of Lord Lyons in response, dated 29th of the same month.)

Nevertheless, as it would appear from your Lordship's despatch of three months later, pressure was brought to bear upon the Porte for remittances in relief of the Anglo-French guarantee, in the sense of a priority or preference obligation. Whether or not proceeds of revenues pledged in security for the 1862 loan were forestalled for advantage of the Anglo-French guarantee cannot be traced; but the terms of your Lordship's despatch, while claiming "remission of funds for the payment of the interest and sinking fund on the guaranteed loan more especially," do not discriminate by the following words "generally, also, on the other loans," as you had been prayed to do in justice to the 1862 bondholders in my letters to your Lordship four days in advance of the despatch under review, and again on the day following.

The omission has been injurious for the following, among other, considerations:—

Clause 5 of Regulations, promulgated September 1866 (*i.e.*, one month later), with formal sanction of His Imperial Majesty the Sultan, reads thus:

"The Imperial Ottoman Bank shall not be allowed to take any sum derived from these revenues in order to apply it to obligatory payments, whether on account of the transactions of the Treasury with that establishment, or on any other account: such payments shall be secured by the Ministry of Finance by means of special assignments."

Be it observed that the bank, notwithstanding the Regulations recited, did, on the following year 1867 (*vide* letters inclosed in No. 30 of the published correspondence), repudiate responsibility of custodes of realized and assigned revenues, deny engagement to keep or render distinctive accounts, and "deprecate any independent action of bondholders" of a nature to interference with the bank's own view of its duties or interests.

The bondholders are even now left in ignorance of what is the new Convention between the Porte and the bank, and what is bearing on their unprotected interests. It is hoped that your Lordship may be willing to obtain some reassuring intelligence in that regard, in view of the following (editorial) statement in the "Times" of 30th ultimo:—

"In order that the bank, at least, may not suffer loss by this change in the scheme for financial reform, it is to be guaranteed its half per cent. commission on the whole revenues just as if all had passed through its hands."

Upon review of the whole case, and upon reconsideration of the method suggested in my letter of 14th December last, to which I crave special reference, it is confidently

hoped that Her Majesty's Government will promote that or some other like, method of receivership for security of the bondholders.

On their behalf Parliament might be reasonably asked to sanction subordination of the annuity of 250,000*l.* per annum until the year 1890, due from Turkey on the guaranteed loan, to the annuity of 640,000*l.* per annum until 1886, due from Turkey on the loan of 1862.

I have, &c.
(Signed) J. A. FRANKLIN.

No. 2.

Mr. Bourke to Mr. Franklin.

Sir, *Foreign Office, February 18, 1875.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 15th instant, upon the subject of the Ottoman Loan of 1862, and expressing a hope that Her Majesty's Government will promote some method of Receivership for security of the bondholders.

I am to refer you, in reply, to my letter of the 16th instant, stating that Her Majesty's Government cannot take official steps on behalf of the bondholders, but a copy of your letter will be sent to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) ROBERT BOURKE.

No 3.

Mr. Corfield to the Earl of Derby.—(Received February 26.)

My Lord, *31, Porchester Square, W., February 25, 1875.*
REFERRING to the correspondence on these loans laid before Parliament and to the continuation of that correspondence courteously communicated by Mr. J. A. Franklin down to Mr. Bourke's letter of 18th instant, I beg leave, on behalf of all concerned, to take exception to the statement: "That Her Majesty's Government cannot take official steps on behalf of the bondholders."

That statement, unless materially qualified, must encourage the Porte in its obvious belief that representations of Her Majesty's Government, upon which the bondholders have heretofore relied, are not earnest reclamations, but mere communications or quasi Reports, of a nature to be disregarded by the Porte at its convenience. So to sacrifice the bondholders at this critical stage of their affairs, would be incompatible with the following citations from the published correspondence:—

Telegraphic Despatch of Earl Russell to Sir H. Bulwer, July 25, 1863, communicated to Aali Pasha, July 27, 1863.

"I insist on instant transmission of payment of interest on loan of 1858."

No. 36.—*The Earl of Clarendon to Mr. Elliot.*

"Sir, *Foreign Office, October 23, 1869.*
"With reference to Lord Lyons' despatch of 22nd May, 1867, I transmit to you herewith the accompanying copy of a letter from Mr. J. A. Franklin requesting to be informed what has been the result of official action promised in the interest of the Turkish Bondholders of the Turkish Loan of 1862, and I have to instruct your Excellency to inquire into the matter.

"I am, &c.
(Signed) "CLARENDON."

Inclosure 1 in No. 44.—*Mr. Barron to Aali Pasha.*

Constantinople, January 28, 1870.

"In compliance with Lord Clarendon's instructions I have therefore the honour now again to represent to your Highness the importance of this matter and to request

that the above engagement of the Imperial Ottoman Government towards British subjects be carried out without any further delay."

It would be superfluous to remind your Lordship that the engagements of the Porte to the bondholders remain still unfulfilled; that Conventions whereby the Imperial Ottoman Bank is constituted Receiver of the hypothecated revenues, is a serious evasion of those engagements; and that a reasonable and practical means of removing immediate difficulties would be to provide a satisfactory guarantee in London from month to month in respect of the instalments of each half-year's annuity (*i.e.*, interest and sinking fund). We are advised that the Loans of 1858 and 1862 stand on a distinct footing from the claims of all other creditors of the Porte, and that, as the said Loans were recommended to the public by letters written by authority of the Government of the day and published with the Prospectus of each Loan, that it is only by effective service for the protection of the bondholders that Her Majesty's Government can avoid the recourse consequent upon the refusal of such services.

I am, &c.
(Signed) G. K. CORFIELD.

No. 4.

Mr. Bourke to Mr. Corfield.

Sir,

Foreign Office, March 5, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 25th ultimo, upon which the subject of the Ottoman Loans of 1858 to 1862; and I am to inform you, in reply, that his Lordship must decline to instruct Her Majesty's Ambassador at Constantinople to take official steps in support of the bondholders.

I am, &c.
(Signed) ROBERT BOURKE.

No. 5.

Mr. Corfield to the Earl of Derby.—(Received March 8.)

My Lord,

31, Porchester Square, W., March 8, 1875.

AT a preliminary meeting of some holders of the above bonds at which Mr. Bourke's letter of the 5th current was read, I was requested to bespeak your Lordship's attention to the following paragraph in No. 103 of printed correspondence, Sir H. Elliot to Earl Granville, November 11, 1872:—

"Sadik Pasha, the present Minister of Finance, has always admitted the claims of the bondholders in reference to a Syndicate, and is, he says, endeavouring to come to a satisfactory arrangement on the subject with the Bank of England."

The bondholders have valid grounds for believing that the Ottoman Bank prevented this arrangement being carried out at the time, and that it has also co-operated with the Porte in evading the establishment of the Syndicates, so repeatedly promised by Minister after Minister, and also by his Excellency Musurus Pasha. The Ottoman Bank receives the assigned revenues, and yet persistently denies that it is trustee and bailee for the bondholders; they therefore feel justified in insisting on the Syndicates being reappointed, or a sufficient guarantee provided in England, and for that purpose they intend to present a petition to Parliament, in order that the same may be referred to Sir H. James's Committee.

The Ottoman Bank, although repeatedly applied to for a copy of the Trade signed about the 16th ultimo, having failed to furnish one, I am to request that your Lordship will be pleased to instruct Sir Henry Elliot to apply for a copy at once, in order that it may be recited in the petition to Parliament.

In consequence of the joint action of the Porte and the Bank in resisting the

reappointment of Syndicates, or providing a sufficient guarantee in London, the bonds of the above loans have been depreciated 20 per cent. and upwards.

I inclose copies of two letters addressed to the Ottoman Bank.

I am, &c.

(Signed) G. K. CORFIELD.

Inclosure 1 in No. 5.

Mr. Corfield to the Directors of the Imperial Ottoman Bank.

Gentlemen,

31, Porchester Square, W., June 5, 1874.

I BEG to draw your attention to the imperfect and unsatisfactory manner in which the two Conventions of February, 1873, are carried out. These Conventions do not in the least degree supersede or modify the arrangements made under the provisions of the original bonds, but, on the contrary, were intended to expedite the payment of the interest and drawings from the revenues specially hypothecated, by having one-fifth of the several amounts paid to separate accounts to the credit of the loans of 1858 and 1862, at the end of each of the first five months, in order that the whole sum due for interest and drawings for the six months might be at the Imperial Ottoman Bank at the end of the fifth month, to be transferred at that date to the Bank of England, to be paid over to the bankers, by order of the Ambassador, fifteen days before the money became payable to the bondholders; and it was provided that due notice of the payment of each instalment should be advertized in two papers in London. These notices not having appeared till three weeks and upwards after the days of payment, added to the fact of the cash not being transferred to the Bank of England at the times stipulated, has rendered the two Conventions of February, 1873, a dead letter, so far as the market value of the two stocks in question is a criterion. On the part of a large number of bondholders, I have to request that, in contemplation of the fiscal arrangements about to take place, you will be good enough to send a copy of this letter to Constantinople, so that these matters may be put upon a proper footing for the future, and thus give to the bondholders of 1858 and 1862 the full benefit of the two Conventions, which, as carried out at present, are little better than waste paper, seeing that the 1863 loan is quoted 3 per cent. above that of 1858, and within $1\frac{1}{2}$ per cent. of the 1862 loan.

I am, &c.

(Signed) G. K. CORFIELD.

Inclosure 2 in No. 5.

Mr. Corfield to the Directors of the Imperial Ottoman Bank.

Gentlemen,

31, Porchester Square, W., June 15, 1874.

REFERRING to my letter of 5th current, I take leave to say the points at issue between the holders of the above bonds and your bank are very simple, and may be easily answered, unless it is intended to resist the rights of the bondholders to demand and receive information.

1. Are the revenues specially assigned for the service of the loans of 1858 and 1862 regularly received by the bank, and are the several amounts duly placed and held to the separate accounts of the above loans respectively at the end of each of the first five months of every half-year?

2. Have the total amounts for the half-year's interest and drawing on account of the above loans been duly transferred to the Bank of England at the periods stated in the bonds, and paid over to the bankers fifteen days before the same become payable to the bondholders, in accordance with the stipulations on the bonds?

As minister after minister has assured Her Majesty's Government, from time to time, "That it was the sincere desire of the Ottoman Government punctually to fulfil their engagements, and that they considered it their duty to carry out the stipulations of their contracts with the bondholders," the Directors can have no valid grounds for declining to answer my questions for the satisfaction of the bondholders, assuming that the bank does not contest, that it is to all intents and purposes "trustee and bailee" for the bondholders of the funds assigned for the service of the above two loans until remitted to the Bank of England.

The Imperial Ottoman Bank having advertized the receipt of the six months' interest and drawings for the 1862 loan on the 31st ultimo, any laches in not having transferred the amount to the Bank of England, at the due rate, rests with the Ottoman Bank, but which must also tend to lower the credit of the Ottoman Government.

The Directors have always strongly deprecated any independent action of bondholders, as well as diplomatic "interference," but when the bondholders feel that the interests of the bank, which is not only a State Bank, but a Financial Company, have been and may be again opposed to the interests of the bondholders, it is time for them to speak out and protect themselves as they may be advised.

I request a copy of this may be sent to Constantinople.

I am, &c.
(Signed) G. K. CORFIELD.

No. 6.

Mr. Lister to Mr. Corfield.

Sir,

Foreign Office, March 10, 1875.

I AM directed by the Earl of Derby to inform you that a copy of your letter of the 8th instant will be sent to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) T. V. LISTER.

No. 7.

Mr. Franklin to the Earl of Derby.— (Received March 11.)

My Lord.

London Institution, Finsbury Circus, March 10, 1875.

ON the assumption that there will be no objection to refer the correspondence on the subject of this loan to the Select Committee on Foreign Loans, I respectfully ask your Lordship so to do; or, in case that a Petition to Parliament, and a motion by some non-official member, be required, I shall feel thankful for needful guidance.

In the meantime, it has been ascertained that the Imperial Ottoman Bank declines to communicate more of its new Convention with the Porte than its own abstract, supplied to the newspapers. From that abstract, it appears that powers to alter certain regulations of the Bank's Receivership are reserved to the Porte and to the Bank, without knowledge or consent of those whose dues are intercepted. It is, therefore, not surprising to observe that notice of ratification of the Convention, instead of favourably affecting the value of our bonds, enables the bank to promise a special bonus to the bank shareholders.

I have, &c.
(Signed) J. A. FRANKLIN.

No. 8.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, March 12, 1875.

I TRANSMIT to you, for your information, a copy of a letter from Mr. Corfield,* inclosing copies of letters addressed to the Directors of the Ottoman Bank, respecting the Loans of 1858 and 1862; and I have to instruct your Excellency to send home a copy of the Trade requested by Mr. Corfield, if you see no objection.

I am, &c.
(Signed) DERBY.

No. 9.

Lord Tenterden to Mr. Franklin.

Sir,

Foreign Office, March 16, 1875.

IN reply to your letter of the 10th instant, I am directed by the Earl of Derby to suggest that if you wish to have the correspondence respecting the Anglo-Turkish Loan of 1862 referred to the Select Committee on Foreign Loans, you should take measures to have this done through some Member of the House of Commons, but that his Lordship cannot interfere in the matter.

I am, &c.
(Signed) TENTERDEN.

No. 10.

Mr. Corfield to Mr. Sanderson.—(Received March 17.)

Sir,

31, Porchester Square, W., March 16, 1875.

ON the 8th instant, I addressed a letter to the Earl of Derby, in continuation of my letters as to the Turkish Loans of 1858 and 1862, and on the 10th received a reply signed "T. V. Lister," simply stating a copy of my letter would be sent to Her Majesty's Ambassador at Constantinople.

If my letter has not been submitted to the Earl of Derby, may I request that you will bring the same to the notice of his Lordship, as I have reason to believe that Sir H. Elliot could induce the Finance Minister to carry out the arrangement with the Bank of England, referred to in his letter of 11th November, 1872, to Earl Granville, and which the Petition to Parliament will probably expedite.

I am, &c.
(Signed) G. K. CORFIELD.

No. 11.

Mr. Sanderson to Mr. Corfield.

Sir,

Foreign Office, March 17, 1875.

IN reply to your letter of yesterday's date, I beg to say that it would be out of my province to interfere in the question of an official representation addressed by you to the Secretary of State. Such communications are laid before Lord Derby in regular course by the Under-Secretaries of State, and answered by them, under Lord Derby's directions, as appears to have been done in the present case by Mr. Lister.

I am, &c.
(Signed) G. H. SANDERSON.

No. 12.

Mr. Corfield to Mr. Sanderson.—(Received March 25.)

Sir,

31, Porchester Square, W., March 20, 1875.

I HAVE to thank you for your letter of the 16th. With reference to the Petition to be presented to Parliament, I have to request, as on a previous occasion, that you will do me the favour to submit to Lord Derby that the further correspondence should be printed, so that the Committee may have the whole matter before them.

I am, &c.
(Signed) G. K. CORFIELD.

No. 13.

Lord Tenterden to Mr. Corfield.

Sir,

Foreign Office, March 31, 1875.

I AM directed by the Earl of Derby to inform you, in reply to your letter to Mr. Sanderson, of the 20th instant, that if you wish the correspondence respecting the Anglo-Turkish Loan of 1862 to be referred to the Select Committee on Foreign Loans, you should take measures to have this done through some Member of the House of Commons, but that his Lordship cannot interfere.

I am to add that papers required for the consideration of the Committee are printed under the directions of the Committee at the House of Commons, and not by this Office.

I am, &c.

(Signed)

TENTERDEN.

No. 14.

Sir H. Elliot to the Earl of Derby.—(Received April 23.)

My Lord,

Constantinople, April 16, 1875.

AS directed by your Lordship's despatch of the 12th ultimo, I have the honour to inclose copies of the Convention between the Porte and the Imperial Ottoman Bank, and of the Règlement, which have been confirmed by Imperial Iradé.

The Government having made some difficulty about giving the text of this arrangement, I am indebted for it to the Director of the Bank.

I have, &c.

(Signed)

HENRY ELLIOT.

Inclosure 1 in No. 14.

Convention between the Turkish Government and the Ottoman Bank, February 17, 1875.

L'AN de l'Hégire 1292 et le 11 du mois de Mouharrem, soit le $\frac{5}{17}$ Février, 1875.

Entre son Altesse Hussein Avni Pacha, Grand Vézir, Ministre de la Guerre, et son Excellence Youssof Pacha, Ministre des Finances de Sa Majesté Impériale le Sultan, agissant au nom et pour le compte du Gouvernement Ottoman, d'une part ; et MM. M. H. Foster, Directeur-Général, et Emile Devaux, Directeur de la Banque Impériale Ottomane, agissant au nom et pour compte de la dite Banque, d'autre part :

Vu la Convention passée *ad referendum* à Paris, le 18 Mai, 1874, entre le Gouvernement Impérial, représenté par son Altesse Sadige Pacha, et la Banque Impériale Ottomane, représentée par MM. Charles Mallet, Président du Comité de Paris, et le Comte Adrien de Germiny, Administrateur.

Attendu que les principes de cette Convention ont été ratifiés par le Gouvernement Impérial et approuvés par les assemblées générales des actionnaires de la Banque Impériale Ottomane en date du 12 et 31 Août, 1874.

Il a été convenu et arrêté que l'Acte de Concession de la Banque Impériale Ottomane est révisé et modifié comme suit :—

Art. 3. Le Gouvernement Impérial Ottoman exercera sa haute surveillance sur la Banque par un Haut Commissaire Impérial nommé par lui, après entente préalable avec le Conseil d'Administration et les Comités de la Banque.

Le Haut Commissaire aura le droit de prendre connaissance de la gestion de la Banque et de veiller à la stricte et fidèle exécution du Firman de Concession, des statuts, et du Règlement spécial arrêté entre le Gouvernement Impérial et la Banque, en date de ce jour.

Il assistera de droit aux assemblées générales, de même qu'aux réunions du Conseil d'Administration de Constantinople, et s'opposera à toute résolution qu'il jugera violer ou transgresser les dispositions du Firman de Concession, des statuts, et du Règlement susénoncé.

Dans ce dernier cas la résolution ne pourra devenir exécutoire qu'après que le

défaut de bien fondé de cette opposition aura été prononcé par une décision légale et régulière.

Le Haut Commissaire Impérial contrôlera l'émission des billets de Banque, il veillera à la stricte observation des dispositions du Firman de Concession et des statuts qui s'y rapportent.

Le Haut Commissaire devra signer chaque billet de Banque ou y apposer son sceau.

Il sera chargé de la surveillance des relations de la Banque avec le Trésor Impérial. Il ne pourra pas s'immiscer dans l'administration et gestion des affaires de la Banque.

Le Gouvernement Impérial nommera aussi un mouhassébédji ("comptable"), qui sera spécialement chargé de contrôler les opérations financières du Trésor avec la Banque.

Art. 4. Le capital de la Banque est porté à 10,000,000*l.* sterling. En conséquence, il sera créé 297,500 actions nouvelles de 20 livres sterling chacune. Sur chaque action nouvelle, il sera versé 10*l.* Ces actions nouvelles libérées de 1*l.* 10*s.* seront au porteur comme les anciennes.

Art. 5. La durée de la Concession et des privilèges de la Banque est prorogée de vingt années.

Art. 6. Le siège social et le domicile de la Banque restent fixés à Constantinople.

La Banque s'entendra avec le Gouvernement pour établir des succursales au siège de chaque vilayet de l'Empire, et les locaux nécessaires à cet effet seront mis gratuitement à la disposition de la Banque par le Gouvernement. La Banque pourra aussi établir, après entente préalable avec le Gouvernement, des agences, des comptoirs, ou des correspondances dans les autres villes de l'Empire, suivant que l'exigeront ses besoins ou les intérêts du Trésor. La Banque pourra également établir des succursales, des agences, des comptoirs, ou des correspondances à Paris, à Londres, à Vienne, et dans les autres villes importantes de l'Europe, suivant que l'exigeront ses besoins et les intérêts du Trésor.

Art. 7. La Banque sera administrée à Constantinople par un Conseil d'Administration composé de sept membres, dont quatre Directeurs nommés par les Comités de la Banque siégeant en Europe, et trois administrateurs choisis parmi les banquiers, négociants, ou capitalistes de Constantinople. Ces trois Administrateurs seront nommés par les Comités d'accord avec le Gouvernement.

Un des Directeurs recevra le titre de Directeur-Général et présidera le Conseil d'Administration.

Les Comités siégeant en Europe auront tout pouvoir pour guider, contrôler, et surveiller les opérations de la Banque.

Les attributions et pouvoirs du Conseil d'Administration siégeant à Constantinople seront définis par les Comités d'Europe en vertu d'un règlement d'ordre intérieur. La Banque sera représentée de droit par un de ses Administrateurs ou Directeurs dans la Commission du Budget.

Art. 13. La Banque remplira les fonctions de Trésorier Payeur-Général de l'Empire, conformément aux dispositions du Règlement spécial arrêté en date de ce jour.

Chaque année, un mois au moins avant le $\frac{1}{3}$ Mars, la Banque recevra communication d'une copie détaillée du Budget de l'exercice à courir.

Le Gouvernement s'engage à verser dans les caisses de la Banque, à l'exclusion de tout autre établissement, tant à Constantinople que dans les provinces, tous les revenus quelconques de l'Empire, à quelque titre et sous quelque forme qu'ils soient perçus, suivant les dispositions du Règlement spécial susmentionné.

Le Gouvernement s'oblige à prendre toutes les mesures nécessaires pour faire que la totalité des revenus de l'Empire soit versée dans les caisses de la Banque en vertu des dispositions du Règlement spécial susindiqué.

La Banque, à l'exclusion de tout autre établissement (sans préjudice, toutefois, des droits acquis à des tiers pour la service des divers emprunts, mais étant bien entendu que les sommes à verser à les tiers le seront par son entremise), sera chargée du paiement de toutes les dépenses publiques effectuées à quelque titre et sous quelque forme que ce soit, tant à l'intérieur de l'Empire qu'à l'étranger, dans les limites des prévisions et des ressources budgétaires, et conformément aux dispositions du Règlement précité. Ces prévisions ne pourront être dépassées si ce n'est dans les cas urgents et extraordinaires visés dans le Règlement Organique du Budget, dont une copie est remise à la Banque.

La Banque veillera à ce que les services de la Dette Publique soient assurés, en prélevant sur ses encaissements des fonds nécessaires à ces services.

Art. 14. La Banque sera chargée, pour le compte de l'Etat, et à l'exclusion de tout autre établissement, de la négociation soit en Turquie, soit à l'étranger, des bons du Trésor et autres effets de Trésorerie qui pourront être émis par le Gouvernement pour suppléer aux retards dans le recouvrement des revenus.

Une loi annuelle de finances, publiée simultanément avec le Budget, fixera le chiffre des bons du Trésor ou autres valeurs de Trésorerie qui pourront être émis. Les émissions ne pourront être faites que par le Ministre des Finances. Si, en dehors des dépenses prévues par le Budget, il survenait un besoin urgent et extraordinaire, comme il a été dit à l'Article précédent, ou s'il se produisait des déficits provenant d'insuffisances ou de mécomptes dans les recettes, il y serait pourvu par l'ouverture de crédits budgétaires extraordinaires.

La Banque ne pourra s'opposer à l'ouverture de ces crédits, qui devront toutefois être approuvés par la Commission du Budget et couverts par une attribution de ressources nouvelles et spéciales. Ces crédits, qui ne pourront jamais avoir pour effet de porter les avances de la Banque au delà du maximum fixé par l'Article 16, devront être réalisés soit au moyen d'une émission supplémentaire de bons du Trésor ou d'autres effets du Trésorerie autorisée par une loi rendue publique, et qui aurait lieu pour compte de l'Etat par les soins de la Banque, soit au moyen d'un emprunt public également autorisé par une loi.

La Banque prélèvera une commission de $\frac{1}{2}$ pour cent sur le total des encaissements qu'elle effectuera soit en numéraire soit en pièces de dépense, ainsi que sur tous les paiements ou transmissions de fonds qu'elle fera pour le compte de l'Etat, soit directement, soit par ses correspondants. Le taux de cette Commission pourra être modifié d'un commun accord entre le Gouvernement et la Banque à l'expiration d'une période de six années à partir de la signature des présentes.

Il est alloué à forfait à la Banque une indemnité annuelle de 5,000*l.* sterling pour chacune des dix premières succursales établies ou à établir par la Banque. Pour toutes autres succursales qui pourront être établies par delà les dix premières, aucune indemnité n'est attribuée à la Banque.

Dans le cas où la commission précitée de $\frac{1}{2}$ pour cent arriverait à porter dans une année sur une somme supérieure à 50,000,000*l.* sterling tant en recettes qu'en dépenses, l'indemnité attribuée pour les dix premières succursales serait suspendu pour cette année et le Gouvernement ne payerait plus rien de ce chef.

Il sera alloué également à la Banque une commission de 1 pour cent sur le montant des bons du Trésor et autres valeurs de Trésorerie qu'elle aura négociés pour compte de l'Etat.

Il est bien entendu que la commission susmentionnée de $\frac{1}{2}$ pour cent ne portera pas sur le produit de la réalisation de ces valeurs.

Art. 15. La Banque sera l'agent financier du Gouvernement tant au dedans qu'au dehors de l'Empire, sans préjudice du droit du Gouvernement de s'adresser à d'autres maisons de Banque ou établissements de crédit pour ces emprunts publics. Toutefois la Banque jouira d'un droit de préférence à conditions égales sur toute maison de Banque ou établissement de crédit pour toute négociation ou émission par voie d'escompte ou de prise ferme de bons du Trésor ou autres effets de Trésorerie, étant bien entendu que les négociations pour compte de l'Etat de toutes ces valeurs se feront exclusivement par les soins de la Banque, comme il est dit dans l'Article 14.

Le Gouvernement, pour favoriser la propagation des billets de Banque, tant dans la capitale que dans les provinces, s'engage à créer dans le pays une unité de circulation métallique en abolissant et en démonétisant dans un délai de trois années toutes les monnaies de mauvais aloi (heckliks, &c.)

Art. 16. A valoir sur les rentrées du Trésor la Banque fera au Gouvernement des avances en compte courant, jusqu'à concurrence de 2,700,000*l.* sterling, à un taux de 8 pour cent au-dessus de la moyenne du taux de l'escompte de la Banque de France et de la Banque d'Angleterre.

En garantie du remboursement de ces avances en capital et intérêts, le Gouvernement remettra à la Banque une somme de 7,000,000*l.* sterling nominales en titres de la Dette Générale 5 pour cent. En cas d'infraction aux présentes ou de liquidation, la Banque pourra réaliser le gage en consolidés après une mise en demeure préalable d'un mois, à moins que le Gouvernement dans le même laps de temps n'ait préférée se libérer en argent de ses engagements envers la Banque.

Le présent Article, en ce qui concerne le chiffre du crédit et le taux de l'intérêt, sera sujet à révision après six ans expirés à dater de la signature des présentes. La Banque

Impériale Ottomane est autorisée, dès à présent, à apporter à ses statuts toutes les corrections nécessaires pour les mettre en harmonie avec les présentes révisions et modifications. Toutes les dispositions de l'Acte de Concession du 4 Février, 1863, qui ne sont pas abrogées expressément ou modifiées par le présent Acte Additionnel, restent en pleine et entière vigueur.

Fait en double à Constantinople, les jour, mois, et an que dessus.

(Signé)

HUSSEIN AVNI.
M. H. FOSTER.
E. DEVEAUX.

(Translation.)

THE year of the Hegira, 1292, and the 11th of the month of Mouharrem, or the 17th of February, 1875.

Between his Highness Hussein Avni Pasha, Grand Vizier, Minister for War, and his Excellency Youssof Pasha, Minister of Finance for His Imperial Majesty the Sultan, acting in the name and on the part of the Ottoman Government, on the one side; and Messrs. M. H. Foster, Director-General, and Emile Devaux, Director of the Imperial Ottoman Bank, acting in the name and on the part of the said Bank, on the other side:

Keeping in sight the Convention passed *ad referendum* at Paris, the 18th of May, 1874, between the Imperial Government, represented by his Highness Sadige Pasha, and the Imperial Ottoman Bank, represented by Mr. Charles Mallet, President of the Paris Committee, and Count Adrien de Germiny, Administrator.

Seeing that the heads of this Convention have been ratified by the Imperial Government and approved by the general meetings of the shareholders of the Imperial Ottoman Bank dated the 12th and 31st of August, 1874.

It has been agreed and determined that the Act of Concession of the Imperial Ottoman Bank is revised and modified as follows:—

Art. 3. The Imperial Ottoman Government shall exercise its high supervision over the Bank by means of an Imperial High Commissioner, nominated by the Government, after a previous understanding with the Council of Administration and the Committees of the Bank.

The High Commissioner shall have the right of informing himself of the management of the Bank, and of watching over the strict and faithful execution of the Firman of Concession, the rules, and the special Regulation determined on by the Imperial Government and the Bank, of this day's date.

He shall have the right of attending the general meetings as well as those of the Council of Administration of Constantinople, and shall oppose any resolution which, in his judgment, shall violate or transgress the terms of the Firman of Concession, the rules, and the Regulations mentioned above.

In this last event, the resolution can only come into force after a regular legal decision shall have declared this opposition to have lacked sufficient grounds.

The Imperial High Commissioner shall control the issue of Bank notes, shall see to the strict observance of the provisions of the Firman of Concession and of the rules bearing on it.

The High Commissioner shall sign, or affix his seal to, each Bank note.

He shall be charged with the superintendence of the relations of the Bank with the Imperial Treasury. He shall not interfere in the management and administration of the affairs of the Bank.

The Imperial Government shall also nominate an ("mouhassébédji") accountant, whose special duties shall consist in controlling the financial operations of the Treasury with the Bank.

Art. 4. The capital of the Bank is fixed at 10,000,000*l.* sterling. Consequently 297,500 new shares shall be created, each of 20*l.* sterling. Upon each new share, 10*l.* shall be deposited. The shareholders shall hold these new shares, with 1*l.* 10*s.* paid off, like the old ones.

Art. 5. The term of the Concession and the privileges of the Bank are prolonged twenty years.

Art. 6. The place of business and the domicile of the Bank remain fixed at Constantinople.

The Bank shall agree with the Government for the formation of branch establishments in every vilayet of the Empire, and the necessary premises shall be put at the disposition of the Bank, free, by the Government. The Bank can also establish, after

previous agreement with the Government, agencies, offices, or relations with the other towns of the Empire, as its necessities or the interests of the Treasury shall demand. The Bank can equally establish branches, agencies, offices, or relations at London, Paris, Vienna, or at the other important towns of Europe, as its necessities or the interests of the Treasury may demand.

Art. 7. The Bank shall be administered at Constantinople by a Council of Administration composed of seven members, namely, four Directors nominated by the Boards of the Bank sitting in Europe, and three Administrators chosen from among the bankers, merchants, or capitalists of Constantinople. These three Administrators shall be nominated by the Boards acting with the Government.

One of the Directors shall receive the title of Director-General, and shall preside over the Council of Administration.

The Boards sitting in Europe shall have full powers of guiding, controlling, and superintending the operations of the Bank.

The functions and powers of the Council of Administration sitting at Constantinople shall be defined by the Boards in Europe, by virtue of an internal Regulation. The Bank shall have the right of representation by one of its Administrators or Directors in the Budget Commission.

Art. 13. The Bank shall fill the functions of Treasurer Paymaster-General of the Empire, according to the terms of the special rule determined on of this day's date.

Every year, at least one month before the ^{1st}/_{13th} of March, the Bank shall have communicated to it a detailed copy of the Budget of the current year.

The Government engages to pay into the Bank, to the exclusion of every other establishment, either at Constantinople or the provinces, all the Imperial revenues whatsoever, under whatever title or form collected, according to the terms of the special Regulation above mentioned.

The Government binds itself to take all measures necessary for causing the whole of the Imperial revenues to be paid into the Bank, by virtue of the terms of the special Regulation above indicated.

The Bank, to the exclusion of every other establishment (without prejudicing, be it understood, the rights acquired by third parties for the use of the various loans, but on the clear understanding that sums due to third parties shall be paid by its intervention), shall be charged with the payment of all public expenses, effected under any title or form, both within and without the Empire, coming within the limits of the provisions and resources of the Budget, and according to the terms of the Regulation before cited. These provisions can only be transgressed in the urgent and extraordinary cases comprised in the organic regulation of the Budget, of which a copy is delivered to the Bank.

The Bank will take care to meet the obligations of the Public Debt by deducting from its collections the funds necessary for this purpose.

Art. 14. The Bank shall be charged, on the part of the State and to the exclusion of every other establishment, with the negotiation, either in Turkey or abroad, of Treasury bonds and other bills of the Treasury which may be issued by the Government to supplement arrears in the payment of the revenues.

An annual finance measure, published at the same time as the Budget, shall fix the total of the Treasury bonds or other bills which may be issued. The issues can be made by the Minister of Finance alone. If, beyond the expenses provided for by the Budget, there arose a case of urgent and extraordinary necessity, as mentioned in the preceding Article, or if some deficit should be found, arising from insufficiency in or miscalculation of the receipts, it shall be met by the opening of extraordinary Budget credits.

The Bank cannot oppose the opening of these credits, which must be approved in every case by the Budget Commission, and met by the appropriation of new and special expedients. These credits, which must never cause the advances of the Bank to be carried beyond the maximum fixed by Article 16, are to be realized either by means of an additional issue of Treasury bonds or other properties thereof, authorized by a law made public, which shall be passed on the part of the State through the care of the Bank, or else by means of a public loan, likewise authorized by a law.

The Bank shall deduct a commission of $\frac{1}{2}$ per cent. on the total of the collections it shall effect, either in specie or in bills, as well as on all payments or transfers which it shall make on the part of the State, either directly or by its correspondents. The rate of this Commission can be modified by an agreement between the Government and the Bank, at the end of a period of six years dating from the signature of the present Articles.

There is allowed by contract ("à forfait") to the Bank an annual indemnity of 5,000*l.* sterling for each of the first ten branches established or to be established by the Bank. For any other branches which may be established after the first ten no indemnity is granted to the Bank.

In case that the above commission of $\frac{1}{2}$ per cent. should be raised in one year on a sum amounting to upwards of 50,000,000*l.* sterling, as well in receipts as in payments, the indemnity granted for the first ten branches would be suspended for that year, and the Government would pay nothing more on this head.

There will likewise be allowed to the Bank a commission of 1 per cent. on the amount of the Treasury bonds and other bills which it may have negotiated on the part of the State.

It is clearly understood that the above commission of $\frac{1}{2}$ per cent. shall not have reference to the product of the realization of these bills.

Art. 15. The Bank shall be the financial agent of the Government both within and without the Empire, without prejudicing the right of the Government to apply to other banking-houses or establishments of credit for the public loans. At the same time the Bank shall enjoy a right of preference on equal conditions over any banking-house or establishment of credit for any negotiation or issue by means of discount or of security of Treasury bonds or other bills of the Treasury, with a clear understanding that the negotiations on the part of the State for all these properties shall be carried on exclusively through the Bank, as said in Article 14.

The Government, to assist the circulation of bank notes in the Capital as well as in the Provinces, engages to create in the country a unity of metal currency, by abolishing and calling in, in the space of three years, all coins of bad alloy (heckliks, &c.)

Art. 16. In proportion to the receipts of the Treasury, the Bank shall make the Government advances, on account current, to the amount of 2,700,000*l.* sterling, at a rate of 8 per cent. above the average of the rate of discount of the Bank of France and the Bank of England.

As security for the repayment of these advances in capital and interest, the Government shall remit to the Bank a sum of 7,000,000*l.* sterling nominal, in obligations of the "Dette Générale" 5 per cent. In case of infraction of these present Articles or of liquidation, the Bank can realize the security in Consols after a preliminary delay of one month, unless the Government in the same lapse of time may have preferred discharging its obligations towards the Bank in cash.

The present Article, as far as concerns the amount of the credit and the rate of interest, shall be subject to revision after six years have expired from the date of the signature of the present Articles. The Imperial Ottoman Bank is authorized from the present time to add to its rules all the corrections necessary to make them agree with the present revisions and modifications. All the provisions of the Act of Concession of the 4th of February, 1863, which are not expressly repealed or modified by the present additional Act, remain in full and entire force.

Done in duplicate at Constantinople, the day, month, and year as above.

(Signed)

HUSSEIN AVNI.
M. H. FOSTER.
E. DEVEAUX.

Inclosure 2 in No. 14.

Regulations of the Ottoman Bank.

Règlement déterminant les rapports de la Banque Impériale Ottomane avec le Ministère des Finances, les Vilayets, et les autres Départements Administratifs de l'Etat pour l'encaissement des revenus et le paiement des dépenses de l'Empire.

Article 1. D'après les dispositions de la Loi sur le Budget Général de l'Empire, le Ministère des Finances remettra à la Banque, au moins un mois avant le $\frac{1}{3}$ Mars, une copie détaillée du Budget qui devra être dressé chaque année par le dit Ministère. Ce document indiquera en détail les recettes et les dépenses de diverse nature de chaque vilayet et Département de l'Etat.

Art. 2. Le Ministère des Finances pourra seul émettre au profit des divers services publics, et dans la limite des crédits qui leur seront ouverts par le Budget, des havalés ou délégations de revenus.

Un tableau de ces émissions sera remis à la Banque.

Le Ministère des Finances délivrera à la Banque des délégations jusqu'à due concurrence, sur tous les revenus affectés au service de la Dette Publique.

Le montant de ces délégations sera versé au fur et à mesure des recouvrements, aux succursales et aux agences de la Banque, et porté par elle à Constantinople au crédit du compte "affectations à la Dette Publique."

Dans les vilayets où il n'existera pas de succursale de la Banque, les Agents du Trésor devront transmettre à la Banque à Constantinople, dans le plus bref délai possible, le montant des havalés dont ils auront effectué le recouvrement.

Le tableau de tous les recouvrements effectués ainsi sur les revenus affectés à la Dette Publique continuera à être publié mensuellement comme par le passé, conformément aux dispositions de l'Iradé Impérial du 27 Rebiul Akhir, 1283.

Art. 3. Tous les revenus de Constantinople seront versés à la Banque par les Administrations chargées de la perception de ces revenus, déduction faite de leurs frais dont elles justifieront. La Banque passera écriture des recettes et dépenses pour ordre d'après les pièces qui lui seront remises par ces administrations. Elle effectuera tous les paiements d'après les ordres du Ministère des Finances dans les limites du Budget.

Dans toutes les villes où la Banque aura une succursale ou une agence, elle encaissera le montant des recouvrements effectués sur tous les revenus, de quelque nature qu'ils soient, déduction faite des havalés émis en paiement des services publics ainsi que des dépenses locales, dont il sera justifié.

Dans les vilayets aux chefs lieux desquels la Banque aura une succursale, les Agents du Trésor devront lui transmettre directement au fin de mois, avec un bordereau récapitulatif de toutes leurs opérations, leurs pièces de dépenses, et l'excédant de leurs recettes.

Tous les autres vilayets expédierait directement à la Direction Centrale de la Banque à Constantinople, avec le bordereau récapitulatif de toutes leurs opérations, leurs pièces de dépenses, et l'excédant de leurs recettes.

Art. 4. Les versements effectués par les vilayets et les autres Départements de l'Etat seront portés par la Banque au crédit des comptes ouverts au Trésor, valeur du jour de la réception de ces versements à la Caisse Centrale de la Banque à Constantinople.

Le solde des sommes encaissées par la Banque dans les provinces ne sera porté au crédit des comptes à Constantinople qu'après un délai proportionnel aux distances, suivant le tableau ci-annexé.

Art. 5. Chaque vilayet ou administration adressera au Ministère Impérial des Finances à la fin de chaque mois le double des bordereaux de ses opérations, qu'il aura remis avec la pièce certifiée des dépenses locales et les reçus des havalés, à la Banque à Constantinople ou à ses succursales, et les pièces justificatives elles-mêmes seront remises au Ministère des Finances par la Banque, dès qu'elle aura procédé à leur enregistrement et à leur vérification.

Art. 6. La Banque passera écriture dans ses registres des recettes et des dépenses de chaque vilayet, suivant les états et les pièces qui lui seront parvenus, après avoir confronté ces documents avec les Budgets de l'exercice courant, et elle en débitera et créditera respectivement les comptes, absolument comme si ces sommes avaient passé par ses mains.

Art. 7. Les comptes "affectations à la Dette Publique" étant expressément maintenus ainsi qu'il a été dit à l'Article 2, le montant des revenus encaissés par la Banque, déduction faite des revenus affectés aux divers emprunts extérieurs, sera tenu à la disposition du Ministère des Finances, pour être employé, selon ses ordres et instructions, dans la limite des crédits ouverts par le Budget.

Sauf le cas de force majeure et les circonstances extraordinaires prévues par la loi du Budget Général de l'Empire, il est formellement interdit à la Banque d'effectuer aucun paiement qui ne serait pas compris dans le Budget, lors même que ce paiement ferait l'objet d'un ordre exprès du Ministère des Finances.

Art. 8. En cas d'insuffisance des revenus, il y sera pourvu, soit au moyen de l'avance que la Banque fera au Trésor, soit au moyen des bons du Trésor ou autres valeurs de Trésorerie émises pour suppléer aux retards dans le recouvrement des revenus et qui devront toujours se renfermer dans les limites fixées par la loi du Budget.

Art. 9. A l'expiration de chaque année, la Banque Impériale Ottomane présentera au Ministère des Finances le compte des intérêts courus sur le crédit de son compte courant avec le Trésor. Le Ministère ratifiera le susdit compte, après collationnement avec ses propres écritures, et le retournera, sous le plus bref délai possible, à la

Banque. Le montant de ces intérêts sera porté par elle, à la fin de chaque année financière, au crédit de son compte avec le Trésor Impérial.

Quant à la commission statutaire, $\frac{1}{2}$ pour cent, stipulée par la Convention du 18 Mai, 1874, elle sera portée par la Banque au débit du Trésor Impérial en quatre paiements trimestriels égaux, sans capitalisation d'intérêts durant l'année financière à laquelle elle se rapporte.

Art. 10. La Banque sera tenue de créditer les comptes du Trésor Impérial d'après les pièces d'expédition (Irsalyé) transmises par les administrations et les vilayets, et elle ne pourra débiter les susdits comptes que suivant les chèques et ordres fournis par le Ministère des Finances. Enfin, aucun paiement, de quelque nature qu'il soit, ne pourra être effectué par la Direction Centrale de la Banque, ou par ses succursales, sans l'ordre du Ministère des Finances.

Art 11. La Banque Impériale Ottomane ne pourra exercer aucune ingérence dans les recettes et les dépenses des administrations qui n'ont jamais été comprises dans le Budget.

Art. 12. Toute somme restant à la Banque au débit ou au crédit du Trésor à la fin d'un exercice devra être portée au débit ou au crédit du compte de l'exercice suivant et servira de point de départ aux opérations de cet exercice.

Article Additionnel. Les clauses et dispositions dont l'utilité aura été démontrée par la pratique pourront être ajoutées au présent règlement d'un commun accord entre le Gouvernement Impérial et la Banque Impériale Ottomane.

Constantinople, le $\frac{5}{17}$ Février, 1875.

(Signé)

HUSSEIN AVNI.
M. H. FOSTER.
E. DEVEAUX.

(Translation.)

Regulation determining the relations of the Imperial Ottoman Bank with the Finance Department, the Vilayets, and the other Administrative Departments of the State, for the collection of the revenues and the payment of the expenses of the Empire.

Article 1. According to the terms of the Law on the General Budget of the Empire, the Finance Department shall remit to the Bank, at least one month before the 1st March, a detailed copy of the Budget, which is to be drawn up each year by the said Department. This document shall indicate in detail the various receipts and expenses of each Vilayet and Department of the State.

Art. 2. The Finance Department alone shall have the power of issuing, for the profit of the various public works, and within the bounds of the credits which shall be opened for them by the Budget, "havalés" or assignments of revenues.

A list of these issues shall be delivered to the Bank.

The Finance Department shall deliver assignments to the Bank up to the amount due, on all the revenues destined for the service of the Public Debt.

The amount of these assignments shall be transferred, as they are paid in, to the branches and the agencies of the Bank, and carried by it at Constantinople to the credit of the account "appropriations to the 'Dette Publique.'"

In the vilayets where the Bank shall have no branch, the Treasury Agents shall transmit to the Bank at Constantinople, with the shortest possible delay, the account of the "havalés" which they shall have collected.

The list of all the collections effected thus on the revenues appropriated to the "Dette Publique" shall continue to be published monthly as formerly, according to the terms of the Imperial Iradé of the 27th Rebiul Akhir, 1283.

Art. 3. All the revenues of Constantinople shall be paid into the Bank by the Administrations charged with the collection of these revenues, deducting their expenses, for which they must produce vouchers. The Bank shall take note of the receipts and payments to order, according to the documents remitted by these administrations. It shall effect all the payments according to the orders of the Finance Department within the limits of the Budget.

In every town where the Bank shall have a branch or an agency, it shall collect the amount of the payments effected on all the revenues, of whatever kind they may be, making deduction for the "havalés" issued in payment of public works as well as for local expenses, which shall be verified.

In the vilayets in whose chiefs towns the Bank shall have a branch, the Treasury Agents shall transmit to it direct at the end of every month, their statement of

expenses, and the surplus of their receipts, together with an account recapitulating all their operations.

All the other vilayets should forward direct to the "Direction Centrale" of the Bank at Constantinople, their statements of expenses, and the surplus of their receipts, with the account recapitulating all their operations.

Art. 4. The payments effected by the vilayets and the other Departments of the State shall be carried by the Bank to the credit of the accounts opened with the Treasury, holding good from the day of receipt of these deposits at the Central Office of the Bank at Constantinople.

The balance of the sums collected by the Bank in the Provinces shall not be carried to the credit of the accounts at Constantinople, till after a delay proportionate to the distances, according to the annexed lists.

Art. 5. Each vilayet or administration shall direct to the Imperial Department of Finance at the end of each month the duplicate of the accounts of its operations, which it shall have transmitted with the certified statement of the local expenses and the receipts of the "havalés" to the Bank at Constantinople or its branches, and the vouchers themselves shall be delivered to the Finance Department by the Bank, after it has entered them in its books, and verified them.

Art. 6. The Bank shall enter in its registers the receipts and the disbursements of each vilayet, according to the statements and documents received by it, after comparing these documents with the Budgets of the present year, and it shall respectively debit and credit the accounts thereof, just as if these sums had passed through its hands.

Art. 7. The accounts, "appropriations to the 'Dette Publique'" being expressly maintained, as has been said in Article 2, the amount of the revenues collected by the Bank, deducting those assigned to the various foreign loans, shall be at the disposal of the Finance Department, to be employed according to its orders, within the limits of the credits opened by the Budget.

Except in the case of superior force and of the extraordinary circumstances provided for by the law of the general Budget of the Empire, the Bank is formally prohibited from effecting any payments, not comprised in the Budget, even if this payment should form the object of an express order from the Finance Department.

Art. 8. Insufficiency of revenue shall be met either by an advance of the Bank to the Treasury, or by Treasury bonds or other bills, issued to supplement arrears in the payment of revenues, and which shall always be kept within the limit fixed by the law of the Budget.

Art. 9. At the end of each year the Imperial Ottoman Bank shall present to the Finance Department the accounts of the interest accumulated on the credit of its account current with the Treasury. The Department shall confirm the above account, after comparing it with their own notes, and shall return it, with the least possible delay, to the Bank. The amount of this interest shall be carried by the Bank, at the end of each financial year, to the credit of its account with the Imperial Treasury.

With regard to the the legalized commission of $\frac{1}{2}$ per cent. stipulated by the Convention of the 18th of May, 1874, it shall be carried by the Bank to the debit of the Imperial Treasury in four equal quarterly payments, without realizing the interest during the financial year to which it belongs.

Art. 10. The Bank shall be held to credit the accounts of the Imperial Treasury according to the statements ("Irsalyé") delivered by the Administrations and the vilayets, and it can only debit the above accounts according to the cheques and orders furnished by the Finance Department. Lastly, no payment of whatever nature can be effected by the central management of the Bank or by its branches, without the order of the Finance Department.

Art. 11. The Imperial Ottoman Bank can exercise no interference in the receipts and expenses of the administrations which have never been comprised in the Budget.

Art. 12. Every sum remaining at the Bank to the debit or credit of the Treasury at the end of the financial year shall be carried on to the debit or credit of the account in the next Budget, and shall serve as starting-point for the operations of this Budget.

Additional Article. Any clauses and provisions of which practice shall have shown the utility, can be added to the present regulations by mutual agreement between the Imperial Government and the Imperial Ottoman Bank.

Constantinople, February 17, 1875.

(Signed)

HUSSEIN AVNI.
M. H. FOSTER.
E. DEVEAUX.

TURKEY. No. 3 (1875).

FURTHER CORRESPONDENCE respecting the
Ottoman Loans of 1858 and 1862.

(In continuation of Papers presented to Parliament,
March 2, 1875: C. 1163.)

*Presented to the House of Lords by Command of
Her Majesty.* 1875.

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TURKEY. No. 6 (1875).

FURTHER CORRESPONDENCE

RESPECTING THE

OTTOMAN LOANS OF 1858 & 1862.

(In continuation of "Turkey, No. 3," presented to Parliament June 3, 1875.)

*Presented to the House of Commons by Command of Her Majesty, in pursuance of their
Address dated July 22, 1875.*

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RETURN to an Address of the Honourable the House of Commons, dated July 22, 1875;

for—

“Copy of any Correspondence between the Foreign Office and other parties on the subject of the Anglo-Turkish Loans, which may have taken place since April last.”

No. 1.

Sir H. Elliot to the Earl of Derby.—(Received May 10.)

My Lord,

Constantinople, April 29, 1875.

WITH reference to your Lordship's despatch of the 12th ultimo,* I have the honour to inclose a copy of the explanations that have been given by the Imperial Ottoman Bank to the complaints of the bondholders of the Turkish Loans of 1858 and 1862, contained in the letters of which the copies were inclosed in your Lordship's despatch.

This paper has been communicated to me by Mr. Foster, the manager of the bank here.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 1.

Convention of Imperial Ottoman Bank with Contractors of 1858 Loan.

Banque Impériale Ottomane, Constantinople, April 27, 1875.

IN 1873 the Imperial Ottoman Government concluded arrangements with the contractors of the 1858 and 1862 loans respecting the future service of these loans. To all intents and purposes these Conventions are identical.

The following is the text of the Convention with the contractors of the 1858 Loan :—

Text.

Remarks.

1st. The Imperial Ottoman Bank shall be directed by the Imperial Ottoman Government to open a special account for the service of the loan of 1858, and out of the proceeds of the revenues specially assigned for that purpose to place to the credit of this account, at the end of every month, for the first five months of each half-year, one-fifth of the amount required for the service of the loan, so that the total amount required may be completed at the end of the fifth month.

This has been carried into effect with complete regularity.

2nd. The monthly entries shall be announced by the Imperial Ottoman Bank in one or two of the leading newspapers of Constantinople and London.

This has been done. Delays have, it is true, sometimes occurred, but they have been occasioned, in the first place, by the necessity of obtaining the approval of the

* See “Turkey, No. 3 (1875),” page 5.

*Text.**Remarks.*

3rd. Instead of maintaining a commission representing the bondholders in Constantinople, the bondholders shall nominate a commission of two of their body residing in London to receive monthly from the Imperial Ottoman Bank the official notification of each encashments and entries.

4th. It is distinctly understood that, if for the convenience of all parties concerned, the bondholders agree to this arrangement, it is not at any time to be considered as any supercession of the original provisions of their bond, and that, in the event of any failure in carrying out the foregoing arrangements, a Commission similar to that provided by the general bond dated 28th August, 1858, shall resume their active functions at Constantinople, in conjunction with two members representing the English bondholders, to be nominated by the Commission of bondholders, and appointed by the contractors of the loan.

Ottoman Finance Minister to the statement; in the second, by the time which the mail takes between Constantinople and London.

This Commission has been constituted.

This understanding is admitted, and no question has arisen under it.

No. 2.

Mr. Corfield to the Earl of Derby.—(Received June 11.)

My Lord,

31, *Porchester Square, W.*, June 10, 1875.

REFERRING to the papers laid before Parliament relating to the Anglo-Turkish Loans of 1858 and 1862, and to Lord Tenterden's letter of the 31st March last, by which I was informed "that if I wished the correspondence respecting the above loans to be referred to the Committee on Foreign Loans, I should have it done through a member," I have the honour to inform your Lordship that a petition was prepared and signed by about twenty private parties resident in this Borough, which I handed to Mr. Forsyth, and requested him to adopt the course pointed out by your Lordship. Shortly after I received a letter from Mr. Forsyth stating that Mr. Lowe had informed him, "the Committee had passed a resolution not to entertain questions relating to any loans not mentioned in Sir Henry James' speech," and that, therefore, he could do nothing further.

I thereupon wrote a letter of remonstrance to Sir Henry James, and saying, "it seemed to me the Committee were abrogating the power of the House, and that by refusing to hear the petition they were ignoring the just rights and interests of hundreds of families, &c." to which Sir Henry James replied, "the Committee had been empowered by the House to inquire only into matters connected with certain loans, and it had no other powers."

I answered, admitting the fact, and added that was no reason why the Petition should not be referred to the Committee, as in the case of Mr. Sheridan's Bill, and I requested Sir Henry James to present the Petition and make the motion, but to this he demurred, being a member of the Committee. I then applied to the Liberal Member for Marylebone, who was to see Mr. Lowe, and endeavour to get him to consent to the Petition being referred to the Committee; and if he still refused, I requested Sir Thomas Chambers to move for a Select Committee.

I have now received a letter from Sir Thomas Chambers, saying he had seen Mr. Lowe, who "emphatically refused to have the Petition referred to the Committee," and "that if he moved for a new Committee, he would be out-voted, unless Government supported him."

As the matter has gone thus far, and as the advertisement last week, headed "General Debt of the Ottoman Empire," with a note of the several sums received by the

Ottoman Bank on account of "The External and General Debt," and setting forth the revenues hypothecated to the loans of 1858 and 1862, without any reservation on account of those loans, has caused uneasiness on the part of several bondholders, I have to request your Lordship will be pleased to direct Mr. Bourke to take steps to have the Petition printed, so as to complete the case, and that your Lordship will be further pleased to intimate whether you will advise your colleagues to consent to a Select Committee, so that the Ottoman Government may know that Parliament does not approve of the breach of Treaty obligations on the part of the Porte to the Bondholders of the 1858 and 1862 loans. These loans, it is matter of record, have a distinct priority to special revenues, which the Ottoman Government and the Bank are doing their utmost to supersede.

I am, &c.
(Signed) G. K. CORFIELD.

No. 3.

Mr. Bourke to Mr. Corfield.

Sir, *Foreign Office, June 12, 1875.*
LORD DERBY has placed in my hands your letter of the 10th instant relative to your wish that a Select Committee should be appointed to inquire into the Anglo-Turkish Loans of 1858 and 1862, as you have not been successful in obtaining a reference to the Foreign Loans Committee of a Petition on the subject.

I am to inform you, in reply to your letter, that the matter is one entirely for the House of Commons, and that it is not one in which this office can interfere, or one which I could myself propose should be referred to a Committee of the House.

I am, &c.
(Signed) ROBERT BOURKE.

No. 4.

Mr. Corfield to Mr. Bourke.—(Received June 14.)

Sir, *31, Porchester Square, W., June 12, 1875.*
I BEG to acknowledge receipt of your letter of this date. Permit me to say I did not expect you could initiate the motion for a Select Committee. I wished to be informed whether, in consequence of Mr. Lowe's refusal to entertain the Petition of the Anglo-Turkish bondholders of 1858 and 1862, Ministers would vote in favour of a new Committee? and I shall feel much obliged by an answer, and by your stating at the same time whether you will cause the Petition to be printed.

I enclose copy of a letter from the Council of Bondholders, showing that his Excellency and the Ottoman Bank are now pursuing the same tactics as in 1863, which the printed papers prove.

The Convention just laid before Parliament and the advertisement of the 27th May last corroborate the statement that "the Porte and the Bank are doing their utmost to supersede the special securities of the 1858 and 1862 bondholders."

I am, &c.
(Signed) G. K. CORFIELD.

Inclosure in No. 4.

Mr. Hyde Clarke to Mr. Corfield.

Sir, *Council of Foreign Bondholders, 10, Moorgate Street,
London, E.C., June 12, 1875.*

I BEG to acknowledge the receipt of your letter of the 10th instant, and to inform you that, in compliance with the request contained in your letter of the 2nd instant, application was made to the Ottoman Bank for an explanation of the advertisement which appeared in the "Times" of the 27th of May. The Bank, in reply, stated that the information in their possession was not sufficient to enable them to answer the questions which were put to them. We have since received a communication from his Excellency

Musurus Pasha, in which his Excellency informed us that we could obtain any details from the Ottoman Bank.

We have accordingly made a fresh application to the Bank.

I am, &c.

(Signed) HYDE CLARKE, *Secretary*.

No. 5.

Mr. Corfield to the Earl of Derby.—(Received June 16.)

My Lord,

31, Porchester Square, W., June 16, 1875.

HOLDERS of bonds of the 1858 and 1862 Loans have had under consideration what purports to be a copy of the Convention between the Ottoman Government and the Bank, and I have been requested to point out to your Lordship that it appears Articles I and II are wanting, also Articles from VII to XIII, which must have escaped the notice of Sir Henry Elliot. This omission should be supplied. By No. VII it is provided that four Directors are to be nominated by the Boards of the Bank in Europe, and that the Boards in Europe shall have full power of guiding the operations of the Bank, and that the the functions and powers of the Council of Administration sitting at Constantinople shall be defined by the Boards in Europe, thus making those Boards or Branches the head departments of the Bank, and yet in the advertisement of the 26th of last month the London Branch or Board is designated “(London Agency),” thus continuing to ignore all responsibility to the bondholders, as heretofore.

Article XIII. The Bank is constituted Treasurer and Paymaster-General, and is “charged with payment of all public expenses effected under any title or form, both within and without the Empire;” so that not only are the trustees of the 1858 and 1862 bondholders put aside altogether, in breach of the contracts, but the revenues assigned as security for those Loans are fraudulently put into hotchpotch without any restriction or limitation, and there is not even a declaration of trust in favour of the 1858 and 1862 bondholders, although the Turkish Ambassador made a solemn declaration that if the bondholders required it, a separate syndicate should be appointed for each Loan. Surely these are matters which Mr. Lowe’s Committee should inquire into, instead of wasting their time inquiring into stock jobbing matters, over which they can have no control, and for which Mr. Rothschild, Mr. Grant, and others, told them there was no remedy.

Mr. Lowe’s refusal to hear the Petition should be brought to the notice of the House, which can be done when the motion for a new Committee is made, and which it appears to the bondholders Government is bound to support, as doubtless Mr. Lowe was actuated by party motives. One sitting would dispose of the matter, as the Convention alone proves the breaches of contract, without the correspondence laid before Parliament.

I am, &c.

(Signed) G. K. CORFIELD.

No. 6.

Mr. Corfield to the Earl of Derby.—(Received June 22.)

My Lord,

31, Porchester Square, W., June 21, 1875.

THE utterances of members on both sides of the House on Mr. R. Yorke’s motion contain strong grounds and valid reasons in support of a Select Committee to inquire into the Petition of the Anglo-Turkish Bondholders of 1858 and 1862; and the Petitioners are hopeful that Her Majesty’s Government will consent to a motion for a Committee, as requested in my letter of the 12th current to the Under Secretary, to which I have received no reply.

The Petition, and the Report of the Committee, could then be sent to Sir Henry Elliot, with instructions to bring them to the notice of the Porte, and at the same time to make “earnest remonstrances” as to the breaches of faith committed against the Bondholders of 1858 and 1862, set forth in the Petition, and to remind the Porte that these Loans were subscribed “to enable Turkey to take up her paper money,” with which the country was flooded, and on the express condition that the Trustees were to receive the assigned revenues, and “to pay them into the Bank of England one month before the interest was due upon the Bonds;” and that Aali Pasha, Fuad Pasha, Sadik Pasha,

and Musurus Pasha, have each and all pledged themselves, from 1862 to 1874, to reappoint the Syndicates for the two Loans.

I am, &c.
(Signed) G. K. CORFIELD.

No. 7.

Lord Tenterden to Mr. Corfield.

Sir, *Foreign Office, June 23, 1875.*
MR. BOURKE has laid before the Earl of Derby your letter of the 12th instant, and I am directed by his Lordship to acknowledge the receipt of your further letters of the 16th and 21st instant, respecting the Ottoman Loans of 1858 and 1862.

Lord Derby desires me to point out in reply that it is impossible for him to enter into a correspondence with you respecting the proceedings of a Committee of the House of Commons, and I am to state that he cannot undertake on behalf of Her Majesty's Government that they will support any motion in the House for a new Committee.

With regard to the copy of the Convention between the Porte and the Ottoman Bank, which has been laid before Parliament, I am to acquaint you that the paper has been printed in the form in which it had been received from Sir Henry Elliot, and in which it had been communicated to him, for his information, by the Bank. Lord Derby has already informed you that Her Majesty's Government cannot interfere officially in support of the Bondholders, and his Lordship cannot therefore take any steps with regard to that Convention, or offer any opinion on its provisions.

I am, &c.
(Signed) TENTERDEN.

No. 8.

Mr. Franklin to the Earl of Derby.—(Received June 23.)

My Lord, *London Institution, Finsbury, June 23, 1875.*
WITH reference to the Convention between the Turkish Government and the Ottoman Bank, just laid before Parliament, your Lordship's attention is respectfully called to the inclosed Memorandum. It is believed that a copy, transmitted with suitable instructions to Sir Henry Elliot, might be communicated by him with advantage to our imperilled interests.

I have, &c.
(Signed) J. A. FRANKLIN.

Inclosure in No. 8.

Memorandum on the Convention between the Turkish Government and the Ottoman Bank, and on Regulations thereto appended.

IN a paragraph found between Articles numbered § 7 and § 13 (intervening Articles not supplied) is the following engagement:—

"The Government engages to pay into the Bank, to the exclusion of every other Establishment either in Constantinople or in the provinces, all the Imperial revenues whatsoever, under whatever title or form collected."

It would, therefore, seem that the Government retains power to delay or even to withhold orders whereby alone, from month to month, instalments accrued to the Bondholders can be assigned for their security.

On the assumption that the Government, jealous for its good faith, and the Bank, solicitous for its status in the financial world, will hasten to put this matter on a safe and just footing, they are invited so to do.

The concluding Article of the Regulations provides by anticipation the means of so doing, say by adding a clause which shall render the assignments imperative and effective without liability to control by the Government.

The necessity for such a clause becomes the more obvious, seeing that reservations

are made in the Convention for "force majeure et circonstances extraordinaires," as also for a veto on acts of the Bank administration, until and unless overruled by a court of law (Turkish).

February 17, 1875.

No. 9.

Lord Tenterden to Mr. Franklin.

Sir,

Foreign Office, June 29, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 23rd instant, enclosing a Memorandum on the Convention between the Turkish Government and the Ottoman Bank, which document has been laid before Parliament in continuation of the correspondence relating to the Turkish Loans of 1858 and 1862; and I am to remind you, in reply, that Lord Derby has already informed you that Her Majesty's Government cannot interfere officially in support of the bondholders, and that his Lordship cannot, therefore, take any steps with regard to that Convention, or offer any opinion on its provisions.

I am, &c.

(Signed) TENTERDEN.

No. 10.

Mr. Corfield to the Earl of Derby.—(Received June 29.)

My Lord,

31, Porchester Square, W., June 29, 1875.

I HAVE the honour to inform you that Lord Tenterden's letter of the 23rd current, has been under the consideration of the bondholders of the 1858 and 1862 loans; and I am to inform your Lordship that, as Her Majesty's Government determined not to interfere "officially" in their behalf, they fully relied upon the support of Government to a motion for "Select Committee," as there is little doubt "the Committee on Foreign Loans" refused to entertain the Petition of the bondholders, which, at your Lordship's suggestion, was presented to the House of Commons, by the influence of parties connected with the "Ottoman Bank," whose policy was foreshadowed by Mr. Gilbertson, a Director of the Bank; when he stated to the Committee of the Stock Exchange, "that the Porte had a perfect right at any time to supersede the special securities." This policy has been in effect carried out by the Convention of February last, a garbled copy of which was, it appears, handed to Her Majesty's Ambassador by the Director of the Bank; so that, in point of fact, a "Secret Convention" is entered into, by some subjects of Her Majesty, with a foreign State, to the prejudice of others. But surely Her Majesty's Government will demand a true copy of the Convention. In the meantime, I am to request that your Lordship will be pleased to send the Petition to Sir Henry Elliot, with copies of my letters, and to instruct him to point out to the Finance Minister, that the 1858 and 1862 bondholders call upon the Porte to re-appoint the Syndicates for the two Loans of 1858 and 1862, or to issue an "Irade," as a supplement to the Convention of February 1875, whereby the Ottoman Bank and the Boards in Europe, will be declared to be "trustees and bailees" for the holders of bonds of the 1858 Loan, of the Custom duties, and the Government Octroi levied at Constantinople; and for the holders of bonds of the 1862 Loan, of the duties on tobacco, salt, stamps, and licenses, in priority to all the other bondholders and creditors of the Porte, and also authorising the "Ottoman Bank" to pay into "the Bank of England," at the end of the first five months of each half-year, the total amount required for the service of the two loans according to the contracts with the bondholders. The Honourable T. C. Bruce, M.P., presiding at a meeting of the "Ottoman Bank," on the 24th current, after declaring a "return" of upwards of 50 per cent., is reported to have said, "that if in effect the bank undertook to audit the revenue account and to pay the Government debits, the bank never undertook to pay the dividends on the Government Loans," although the bank receives the revenues belonging to the bondholders of the 1858 and 1862 Loans, and although the Honourable Member stated in the House of Commons a few nights previous, "a great many of the administrative difficulties in Turkey arose from the absence of that influence formerly exercised by the English Government."

An official communication appeared in the "Times" of Saturday last, which stated,

"the Sublime Porte had always fulfilled its engagements with the greatest loyalty, and has never thought of infringing the interests of holders of Turkish Bonds." From this official document it would appear that the Porte is in happy ignorance, that the bondholders of 1858 and 1862 have been deprived of their receiverships and defrauded of their special revenues, so that a friendly remonstrance on your Lordship's part will undoubtedly be gratefully received and responded to.

The Treaty of Paris was interpreted by the Government of the day as giving to England a "moral right to make earnest remonstrances," and the Under Secretary for Foreign Affairs admitted as much in his speech on Mr. Yorke's motion. I am, therefore, to ask your Lordship to instruct Sir Henry Elliot to go to that extent in applying to the Porte to issue a supplemental Iradé, maintaining the rights of the 1858 and 1862 bondholders to a priority over all other creditors of the Porte, "to the revenues hypothecated to the service of those loans," as hereinbefore pointed out.

On behalf of connections and friends at Pera as well as at home, and of the bondholders generally, I pray your Lordship no longer to abandon Turkey to her fate. She is aware many and great reforms are necessary, but she requires the friendly advice and co-operation of England in carrying them out. She looks upon England still as her best and truest friend, and deeply regrets that we have retired from the position we formally held in Turkey. Her difficulties have been greatly exaggerated by parties professing to be her friends, who trade upon the reports of her collapse. The price of the 1858 stock, including the sinking fund, is quoted now at about 30 per cent. below the price of issue, and the 1862 stock at about 15 per cent., while the 5 per cent. general debt having no guarantee or special security, is cent. per cent. higher than it was after the Crimean War! This is the effect of the Convention of February 1875 with the Ottoman Bank, and of the Secret Clauses, which have, I hear, given the bank power to help themselves to the prejudice of all the bondholders. Is this "fulfilling engagements with the greatest loyalty," or rather, is it not "infringing the interests of the holders of bonds of the 1858 and 1862 loans." The bondholders are persuaded that if Her Majesty's Government cause the matter to be earnestly represented to the Porte, that the arrangement herein proposed will be carried out, and the credit of Turkey maintained.

I have, &c.

(Signed) G. K. CORFIELD

No. 11.

Mr. Corfield to the Earl of Derby.—(Received July 2.)

My Lord,

31, Porchester Square, W., July 1, 1875.

IN my letter of the 29th ultimo I urged that Her Majesty's Government should call upon the Porte for a true copy of the Convention of February 1875, and I now take leave to remind your Lordship that when, in 1872, the bondholders discovered that "Secret Clauses" had been introduced into an "Iradé Impériale" in 1866 (not in 1862 as printed), to the prejudice of the 1858 and 1862 bondholders, his Excellency Musurus Pasha made a declaration that the Ottoman Government was ready in effect to annul them, and to re-appoint the syndicates—thus admitting the injustice of the "Secret Clauses." I therefore venture to submit that if a representation is made to the Porte, it could not object to do in this case what it did with the Hatti Houmayoun of 1856, and also with the last Firman issued to the Khedive, viz., to communicate "The Charter of the National Bank," as well as the Secret Clauses in the last Convention, to the European Powers. A formal communication, made at the suggestion of Her Majesty's Government could not possibly affect the independence of the Ottoman Government, and it would tend to give confidence to foreign capitalists. If the credit of the Porte is low at this moment it is not for want of resources, but in consequence of the Secret Convention with the Ottoman Bank, and because the world have yet to learn that a proper check has been put on public expenditure, and that efficient regulations in the collection of the revenues have been made. I have to apologize on my own behalf, and on those I represent, for thus intruding on your Lordship, but trust that the interest we feel in the future of Turkey will be taken into consideration.

I am, &c.

(Signed) G. K. CORFIELD.

No. 12.

Mr. Lister to Mr. Corfield.

Sir,

Foreign Office, July 3, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letters of the 29th ultimo and 1st instant, respecting the Turkish Loans of 1858 and 1862; and I am to state, in reply, that his Lordship cannot give any instructions to Sir Henry Elliot, as you suggest, or depart from the policy indicated to you in his previous letters on this subject.

I am, &c.

(Signed) T. V. LISTER.

No. 13.

Mr. Corfield to the Earl of Derby.—(Received July 6.)

My Lord,

31, Porchester Square, W., July 5, 1875.

I HAVE received Mr. Lister's letter of the 3rd current, in which he acknowledges my letters of the 29th ultimo and 1st instant, respecting the Ottoman Loans of 1858 and 1862, and adding, "Your Lordship cannot give any instructions to Sir Henry Elliot, as suggested, or depart from the policy indicated in your Lordship's previous letters."

Permit me to say the bondholders who presented the Petition were desirous of having an expression of the opinion of Parliament on the points at issue between the 1858 and 1862 bondholders and the Porte; but having been deprived of the influence of Parliamentary support, they look to Her Majesty's Government to protect their interests, not officially, but in accordance with the terms of the Treaty of Paris, as interpreted by the Government of that period, and which interpretation was endorsed by the Under-Secretary for Foreign Affairs and speakers on both sides of the House of Commons on Mr. Yorke's motion.

If the case arose in England, your Lordship is well aware that a Court of Equity would protect the rights and interests of the 1858 and 1862 bondholders by granting an injunction and appointing a receiver of the revenues. I am, therefore, to ask, in the language of the Foreign Office in 1863, that Sir Henry Elliot may be instructed to represent "that the Porte should either strictly comply with its engagements, or to come to some satisfactory arrangement with the 1858 and 1862 bondholders on the subject of the payment of the interest and sinking fund;" and, in order that Sir Henry Elliot may thoroughly understand the grievances of the bondholders of 1858 and 1862, of which none of the other bondholders can complain, that your Lordship will be pleased to send him a copy of the Petition and correspondence, by which he will see that we seek to have a Declaration of Trust in favour of the 1858 and 1862 bondholders emitted in an "Iradé," as a supplement to the Convention of February 1875.

I remain, &c.

(Signed) G. K. CORFIELD.

No. 14.

Mr. Corfield to the Earl of Derby.—(Received July 13.)

My Lord,

31, Porchester Square, W., July 13, 1875.

I BEG to refer your Lordship to my letter of the 5th current. The holders of bonds of the Anglo-Turkish Loans of 1858 and 1862, are anxious to learn whether your Lordship will instruct Sir Henry Elliot to make the representations to the Porte (not officially) but earnestly, as indicated by my letter of that date; as it appeared from the official announcement in the "Times" of the 26th ultimo, that the Porte is in ignorance of the fact that the effect of the Convention of February last with the Ottoman Bank is to deprive the 1858 and 1862 Bondholders of their respective receiver-ships, and also of the revenues specially assigned to the Bondholders. Surely Her Majesty's Government cannot refuse to instruct Her Majesty's Ambassador to put the Porte in possession of all the facts of the case, and to point out the remedy suggested by the Bondholders. On the 17th September, 1872, the Turkish Ambassador made a solemn declaration stating, "The Imperial Ottoman Government has never desired to escape

from any of its engagements; but, on the contrary, has given the utmost solicitation towards the holders of all Turkish Stocks, and more especially towards the holders of the 1858 and 1862 bonds, which shall have under these contracts a prior right on the revenues specially effected." This is only what the 1858 and 1862 Bondholders ask for, and I, on the part of the Bondholders, urgently call upon your Lordship to send full instructions to Sir Henry Elliot in the matter, and to obtain a confirmation of the declaration of the Turkish Ambassador.

I am, &c.
(Signed) G. K. CORFIELD.

No. 15.

Lord Tenterden to Mr. Corfield.

Sir, *Foreign Office, July 15, 1875.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letters of the 5th and 13th instant, on the subject of the Turkish Loans of 1858 and 1862, and in reply I am to state to you that his Lordship can take no further steps in this matter.

I am, &c.
(Signed) TENTERDEN.

No. 16.

Mr. Corfield to the Earl of Derby.—(Received July 19.)

My Lord, *31, Porchester Square, W., July 17, 1875.*
I HAVE received Lord Tenterden's letter of the 15th current, acknowledging my letters of the 5th and 13th current on the subject of the Turkish Loans of 1858 and 1862, and adding "your Lordship can take no further steps in the matter." Surely this is a misapprehension; as I cannot discover that your Lordship has taken any step, except by applying for a copy of the Convention and causing the same and other papers to be laid before Parliament. Your Lordship having declined to take official steps was requested to act unofficially, in accordance with the policy which the Under Foreign Secretary stated in the House of Commons on a recent occasion, "Her Majesty's Government would always be prepared to adopt," and I confidently submit that the case of the 1858 and 1862 Bondholders, as presented in their Petition to Parliament, is an act of injustice of that nature which Her Majesty's Government cannot overlook if the matter could not be raised without inconvenience in an official manner. It is a moral delinquency, and calls for immediate redress. The Convention between the Ottoman Government and the bank containing secret clauses, and by which a portion of Her Majesty's subjects are damnified, is an act of spoliation which a friendly Government ought not to commit, and is an infraction of international duty if not of law, and it is a clear breach of Treaty obligations. Her Majesty's Government having refused to consent to a select committee to inquire and report on the matter is pledged to have recourse to unofficial but earnest remonstrances, as promulgated by the Under Foreign Secretary in his place in Parliament.

Your Lordship is doubtless aware that the Council of Foreign Bondholders took an active part when Lord Granville held office in pressing the claims of the bondholders of the 1858 and 1862 loans to receiverships, but which it appears by a letter from Mr. Franklin (their Consulting Actuary) to Lord Granville, page 101, "Turkey, No. 2, 1874," they abandoned in consideration of several thousand pounds paid to them, and which possibly may account for their inaction at the present time.

I am, &c.
(Signed) G. K. CORFIELD.

No. 17.

Lord Tenterden to Mr. Corfield.

Sir,

Foreign Office, July 22, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 17th instant, on the subject of the Turkish Loans of 1858 and 1862.

I am, &c.

(Signed) TENTERDEN.

No. 18.

Mr. Corfield to the Earl of Derby.—(Received July 31.)

My Lord,

31, Porchester Square, July 1875.

AS Lord Tenterden's letter of the 22nd current does not state that your Lordship will instruct Sir Henry Elliot to bring the special grievances of the holders of bonds of the Anglo-Turkish Loans of 1858 and 1862 to the notice of the Porte, with a view of obtaining redress, it was determined that I should address a letter to his Excellency Musurus Pasha on the subject. I accordingly wrote to the Ambassador, and pointed out that the bondholders relied upon his Excellency redeeming the pledge made to the bondholders by his declaration, viz., that the Syndicates for the two Loans should be reappointed; and I added, this was now more necessary than ever, as the Convention with the Ottoman Bank not only infringed the interests of the 1858 and 1862 bondholders, but it was also an act of spoliation, and a breach of Treaty obligations; and I requested his Excellency to apply to the Imperial Ottoman Government either to reappoint the Syndicates at once, or to provide a sufficient guarantee in London for payment of the principal and interest on the two Loans into the Bank of England at the end of every five months of each half year, according to the terms of the contracts. A print of the Petition was also sent to his Excellency. The bondholders having made this appeal to the Ottoman Government for redress through the Ambassador, rely fully upon Her Majesty's Government to intercede in their behalf, in a friendly spirit, as they cannot believe, after the official document that appeared in the "Times" a few days since, that the Porte is aware that the contracts of both Loans have been violated in two most important provisions, and which, unless redressed at once, will amount to a flagrant infraction of international duty.

In the hope that your Lordship will instruct Sir Henry Elliot to represent the special claims of the 1858 and 1862 bondholders to the Ottoman Government,

I have, &c.

(Signed) G. K. CORFIELD.

TURKEY. No. 6 (1875).

FURTHER CORRESPONDENCE respecting the
Ottoman Loans of 1858 and 1862.

(In continuation of "Turkey, No. 3, 1875," pre-
sented to Parliament, June 5, 1875.)

*Presented to the House of Commons by Command
of Her Majesty, in pursuance of their Address
dated July 22, 1875.*

LONDON:

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533
TURKEY. No. 4 (1875).

CORRESPONDENCE

RESPECTING THE

QUESTION

OF THE

NEGOTIATION OF COMMERCIAL CONVENTIONS

BY THE

PRINCIPALITIES.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

LONDON:

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Correspondence respecting the Question of the Negotiation of Commercial Conventions by the Principalities.

No. 1.

The Earl of Derby to Sir A. Buchanan.

Sir, Foreign Office, July 6, 1874.

THE Austro-Hungarian Ambassador called upon me on the 2nd instant and renewed a conversation which he had held with me on more than one occasion as to the expediency of making Commercial Treaties directly with the Governments of the Principalities and of Servia.

The arguments employed by his Excellency being those already stated in the despatch from Count Andrassy, which he lately read to me, and of which the inclosed abstract has been made, I need not recapitulate them.

Count Beust summed up his case by observing that, if the Governments of the tributary States were willing to accept their position as connected with the Ottoman Empire, in consideration of the exceptional advantage which they gained by having their territory guaranteed, it was desirable to confirm them in these dispositions by removing all unnecessary obstacles to their internal well-being. If, on the other hand, they wanted complete independence, it was equally expedient to deprive them of all plausible pretext for claims which we did not intend to concede.

I said that the desire to be empowered to conclude Commercial Treaties with other countries appeared to me to be prompted rather by political than commercial considerations, since there was no indication of any inconvenience having arisen from the system of informal arrangements at present existing.

Her Majesty's Government, I said, would not take part in pressing on the Porte the necessity of conceding these new rights to the tributary States, rights which did not appear to be either sanctioned or contemplated by existing Treaties, and the demand for which was not likely to be favourably looked upon at Constantinople. But, not seeing that the concession of these claims would involve substantial injury to the Turkish Empire, I should not, on the part of Her Majesty's Government, take steps to oppose the action proposed, as I understood, by the Austro-Hungarian and German Governments, but leave the question to be dealt with by the Government of the Porte, unbiassed by any influence hostile to these demands, which I presumed would be put forward only in a friendly and conciliatory spirit.

I am, &c.
(Signed) DERBY.

Inclosure in No. 1.

Abstract of a Despatch from Count Andrassy to Count Beust, relative to the Commercial Relations of the Danubian Principalities with Foreign Countries.

THE Austro-Hungarian Minister for Foreign Affairs, in a despatch dated Vienna, June 14, 1874, expresses to Count Beust his desire of obtaining the views of Her Majesty's Government on a question connected with the commercial relations of Austria-Hungary and the Principalities on her south-eastern frontiers.

The Treaty of Commerce concluded between Austria and Turkey in 1862 has never been applied to Servia or Roumania, for although forming politically an integral part of the Ottoman Empire, they enjoy complete independence in all that relates to

internal administration, more especially in commercial matters. Indeed, this independence in matters of Customs' administration is recognized in the Treaty itself by an Article stipulating that its provisions do not affect the import and export duties actually in force in the Principalities of Moldavia, Wallachia, and Servia.

His Excellency proceeds to observe that this independence, together with the absence of any Treaty engagements with Austria, leaves the Principalities at liberty to regulate at pleasure their import and export duties. The uncertainty in matters of commerce arising from such a state of things affects not only Austrian trade with the Principalities, but also the transit trade of foreign countries, and calls for a remedy all the more pressingly now that commercial relations with those countries are facilitated by increased means of communication.

Count Andrassy then calls attention to the question whether the States placed under the sovereignty of the Sultan have the right to treat directly with foreign Powers in matters of commerce.

With respect to Servia, Article XXVIII of the Treaty of March 30, 1856, runs as follows: "The Principality in question preserves its independent and national legislation, as well as entire liberty in matters of worship, of legislation, of commerce, and of navigation;" and by Article XXIII the Sublime Porte gives the same guarantees to the Principalities of Moldavia and Walachia. This clause has been confirmed by Article II of the Convention of August 19, 1858, which provides that the Principalities shall continue to enjoy, under the joint guarantee of the contracting Powers, the privileges and immunities of which they are already in possession.

The above provisions do not, says Count Andrassy, draw any distinction between interior and exterior commerce, and any such distinction would, in truth be, economically speaking, chimerical, the latter being only a manifestation of the former. Moreover, had the Powers intended to restrict in such a manner the commercial autonomy of the Principalities, they would have declared the latter bound by the commercial Treaties concluded between the Sublime Porte and foreign countries. The absence of any such stipulation leads Count Andrassy to believe that the entire liberty in matters of commerce guaranteed to the Principalities is to be understood, in the fullest sense of the expression, as comprising complete freedom in regard to external commercial relations, and that, as the Principalities have, for many years past, thought themselves at liberty to conclude Conventions directly with foreign Powers relative to postal and telegraphic communications, extradition, &c., they may also be allowed to treat with them directly on commercial matters, if the necessity for any such agreement makes itself felt.

His Excellency is forced, however, to admit that the Firman of investiture accepted in 1866 by Prince Charles of Roumania, throws some doubts on the question, for the Prince binds himself to respect the principle that no Treaty or Convention can be concluded by him directly with foreign Powers, but that the Sublime Porte will consult the Principalities respecting the provisions of any Treaty or Convention affecting their laws or regulations in matters of commerce. The Firman adds, that arrangements of local interest with frontier countries which do not bear the form of official Treaties, and have no political character, will not be affected by any such restrictions.

Count Andrassy cannot undertake to pronounce upon the question whether the commercial relations of the Principalities can be brought under the bearing of the latter provisions; he can only point out that the question of right, which by Treaty seems decided in favour of Roumania, appears open to discussion when the terms of the Firman are taken into consideration.

The Austro-Hungarian Government are, however, of opinion that, were a decision in the matter given against Roumania, such decision could not affect Servia, and that, as it would be raising gratuitous difficulties to draw a distinction between the two Principalities, the question ought not to be decided to the prejudice of Roumania.

From a practical point of view, it is impossible not to recognize that the commercial relations of foreign Powers with the Principalities of the Lower Danube to be properly regulated can only be settled by direct agreements. The Principalities, owing to their entire independence in Customs matters can, as long as they are not bound by Treaty engagements, raise their duties at pleasure, even to a higher rate than that fixed by the Commercial Treaties between Turkey and foreign Powers, without any redress being obtainable from the Imperial Government since the latter exercises no jurisdiction in commercial matters. To include in commercial Conventions with Turkey stipulations relative to the Principalities would be equally useless, since the Sovereign Court could not enforce their execution without recourse to armed force, if they were

rejected, as they probably would be, by the Legislative Chambers of Servia and Roumania. Apart from any other consideration, such violent measures could not be adopted without the consent of the guaranteeing Powers. His Excellency thinks it unnecessary to insist further on the innumerable obstacles which the conclusion of such a Treaty with the Porte would not fail to meet with, and believes he has shown the necessity for foreign Powers of treating directly with the Danubian Principalities in order to ensure a satisfactory settlement of their commercial relations.

He proceeds to recapitulate the arguments above developed before stating the conclusions at which the Austro-Hungarian Government have been led to arrive.

According to Treaty, Servia has the right to conclude agreements with foreign countries in commercial matters. Although such a right is not so clearly granted to Roumania, there is no reason for placing her on a less favoured footing than her neighbour. On the other hand, any Treaty with Turkey containing commercial stipulations to be applied to the Principalities is condemned to remain a dead letter.

Under these circumstances the Austro-Hungarian Government are decided to request the Sublime Porte to concede to the Servian and Roumanian Governments the right of concluding with foreign Powers commercial agreements bearing no political character. As the Ottoman Government have by the Firman of 1873 conceded this right to the Khedive of Egypt, whom they have never ceased to look upon as an hereditary provincial Governor, and as they have on more than one occasion allowed the Representatives of the Sultan to sign documents bearing an undeniably international character conjointly with the Plenipotentiaries of the Danubian Principalities, it would, says Count Andrassy, be difficult for them to refuse the concession in question without laying themselves open to the charge of inconsistency.

If, against all expectations, the request of the Austro-Hungarian Government were met by a refusal, they would pursue the course already adopted by them and other Powers under similar circumstances, viz., enter into an agreement with the Principalities, including all necessary stipulations, without giving to the instrument itself the form of a solemn Convention or any other ratification than that of the signature of the Ministers of Foreign Affairs.

His Excellency terminates by instructing Count Beust to communicate to Her Majesty's Government his despatch in which he has sought to place clearly before them the reasons which have actuated the Austro-Hungarian Government in this matter, and to demonstrate how eager they are to reconcile the respect due to the sovereign prerogatives of the Sublime Porte with the just demands of the commercial interests of the Empire.

The Austro-Hungarian Ambassador is requested to report to his Government the reception given by Her Majesty's Government to these overtures.

No. 2.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, July 22, 1874.

THE German Ambassador called upon me, and read to me a despatch from Count Bulow expressing the wish of the German Government that English influence should be used with the Porte to bring about the concession to Roumania and Servia of the right to make commercial Treaties on their own account without reference to Constantinople. Some discussion ensued, but the reply which I gave to Count Münster was substantially the same as that which I had already given to Count Beust, namely, that Her Majesty's Government were not prepared to bring any pressure to bear on the Porte to make the concession in question. The matter, I said, appeared to me to be one on which the right of the Sultan and his advisers to form and act on their own unbiassed judgment as to what was best for the interests of the Empire could not be denied, and ought to be respected. But I agreed with Count Münster that the concession proposed involved no real or substantial sacrifice on the part of the Porte, and though it was not my wish to take the initiative in proposing, or actively supporting it, yet no objection would be thrown by Her Majesty's Government in the way of its being granted, and if their advice were asked, they would certainly not recommend to the Porte to place itself in opposition to the wishes both of its own tributary possessions and of the German and Austrian Governments.

I am, &c.

(Signed) DERBY.

No. 3.

Aarifi Pasha to Musurus Pasha.—(Communicated by Musurus Pasha to the Earl of Derby September 3.)

M. l'Ambassadeur,

Le 19 Août, 1874.

J'AI reçu la dépêche que votre Excellence a bien voulu m'adresser le 9 Juillet, pour me rendre compte de son entretien avec Lord Derby sur la prétention du Gouvernement Moldo-Valaque de conclure de Traités de Commerce avec les Puissances.

J'approuve entièrement le langage que vous avez tenu en cette circonstance au chef du Foreign Office. C'est avec satisfaction que nous avons relevé la manière si juste dont Sa Seigneurie envisage cette prétention, et nous lui sommes reconnaissants d'associer à la défense de nos droits une voix aussi autorisée que la sienne. Avec la droiture et la constance dans les traditions politiques qui le distinguent, Lord Derby repoussera certainement avec nous des tentatives et des velléités dont le moindre inconvénient serait d'ouvrir la porte aux complications. Une pareille éventualité favoriserait peut-être certaines entreprises; mais nous ne croyons pas qu'une Puissance aussi sagement conservatrice et aussi intéressée au maintien du *statu quo* consacré par des actes solennels que la Grande Bretagne puisse contribuer, même indirectement, à faire passer dans le domaine des réalités des projets chimériques tendant à mettre tout en question.

Dans cet ordre d'idées, la prétention des Principautés Vassales est une première étape sur le chemin des exigences autrement importantes, autrement inadmissibles. Quel que soit l'accueil que quelques-uns des Cabinets Européens réservent à cette prétention, la ligne de conduite du Gouvernement Impérial lui est tracée d'avance par les principes salutaires qui ont présidé aux Traités Internationaux et dont il est résolu de ne pas dévier. Nous espérons que les Puissances apprécieront, comme elle le mérite, notre attitude, et reconnaîtront en même temps qu'en cette occurrence nous avons encore placé la question sur le terrain de la stricte légalité. Mais si, contre notre attente, ces Principautés venaient à rencontrer dans leurs agissements l'approbation des Puissances, ce que nous regretterions profondément, et s'il nous était donné de voir ces projets se traduire en faits, la Sublime Porte garderait intacte sa liberté de prendre vis-à-vis de ces provinces vassales telles mesures restrictives qu'elle jugerait propres à annuler l'effet de leurs Traités ou arrangements spéciaux.

Je vous prie de développer et de faire valoir, le cas échéant, ces considérations dans vos entretiens avec Lord Derby, et de consacrer vos efforts pour assurer en faveur de nos droits l'appui et le concours éventuels de Sa Seigneurie.

Veuillez agréer, &c.

(Signé) A. AARIFI.

(Translation.)

M. l'Ambassadeur,

August 19, 1874.

I HAVE received your Excellency's despatch of the 9th July, giving me an account of your conversation with Lord Derby on the pretensions of the Moldo-Wallachian Government to conclude Commercial Treaties with the Powers.

I entirely approve the language held by you in this case to the Head of the Foreign Office. We have noticed with satisfaction the justness of the light in which his Lordship regards this pretension, and we are obliged to him for associating in the defence of our rights a voice of such authority as his. Actuated by the rectitude and the firmness in political tradition which distinguish him, Lord Derby will certainly repel with us attempts and aspirations, to which the least objection would be the opening of the door to complications. Such a result would perhaps favour certain undertakings; but we do not believe that a Power so wisely conservative, and so interested in the maintenance of the *statu quo* established by solemn acts as Great Britain, can aid, even indirectly, in introducing into the domain of realities, chimerical projects tending to raise doubts about everything.

In this order of ideas, the pretension of the vassal Principalities is the first stage on the way towards demands in other points of view both important and inadmissible. Whatever may be the reception by some of the European Cabinets of this pretension, the line of conduct of the Imperial Government is traced for it in advance by the salutary principles which have guided the international Treaties, and from which it is resolved not to depart. We hope that the Powers will appreciate the position we take as it deserves, and will at the same time acknowledge that, in this instance, we have

again put the question on the footing of strict legality. But if, contrary to our expectations, the proceedings of these Principalities should meet with the approbation of the Powers, a thing which we should deeply regret, and if we ever saw these projects realized, the Sublime Porte would keep intact its freedom to take such restrictive measures in respect to these vassal provinces, as it might judge suitable to cancel the effect of their Treaties or special arrangements.

I beg that you will develop and expatiate on these considerations, if occasion requires it, in your interviews with Lord Derby, and devote your energies to secure in favour of our rights the support and eventual co-operation of his Lordship.

(Signed) A. AARIFI.

No. 4.

Sir H. Elliot to the Earl of Derby.—(Received September 28.)

(Extract.)

Therapia, September 10, 1874.

THE Roumanian Agent yesterday afternoon put into my hands the inclosed Memorandum on the new Customs Law of the Principalities, and on the right of his Government to conclude Commercial Treaties.

Inclosure in No. 4.

Memorandum by Prince Ghika upon the Roumanian Customs Law.

NOTRE droit de régler les questions douanières peut se soutenir tant au point de vue de la théorie pure qu'au point de vue de la situation politique qui nous est acquis par les Traités, les faits, et les précédents créés, reconnus et consacrés par toutes les Puissances étrangères.

Cette loi est appelée à remplacer différents règlements en vertu desquels nos Douanes étaient administrées jusqu'à ce jour et à assurer la police de nos frontières.

Les droits de Douane doivent être fixés par des Tarifs généraux et par des Conventions qui seraient conclues avec les Etats étrangers (Article 2). Le mode de taxation des marchandises à la Douane a été et est encore défectueux en Roumanie, car cette taxation se fait seulement selon la valeur, ce qui donne lieu à nombre de fraudes de la part des importateurs, ou de ceux qui, en passant la Douane, font des déclarations de beaucoup inférieures à la réalité, et aussi à différents abus et actes arbitraires de la part des employés préposés aux Douanes.

La nouvelle Loi (Article 3) admet ce principe beaucoup plus juste et plus avantageux tant au fisc qu'aux commerçants tenus de payer les droits de Douane, que les marchandises seront, selon leur nature, taxées d'après le poids, la mesure, ou le nombre, et que quelques-unes seulement, par une rare exception, seront tarifées *ad valorem*.

Ce principe a été admis déjà dans différents pays.

L'Article 4 décide qu'on prendra pour base de la tarification des marchandises la valeur moyenne qu'auront ces marchandises sur la place de Bucarest, au moment de l'élaboration du Tarif, et non la valeur des marchandises au lieu de provenance, comme il a été fait jusqu'à ce jour.

Mais il ne résulte pas de là que les marchandises seront taxées plus lourdement, car la base qui servira de norme à leur tarification sera la valeur en gros, ce qui constitue un avantage en faveur des commerçants, pour peu qu'on réfléchisse à la différence de prix de la marchandise quand elle se vend en détail, et passe, avant d'arriver au consommateur, par trois ou quatre mains.

C'est encore pour éviter de frapper le commerce de trop fortes taxes que l'Article 4 prévoit une diminution de 10 à 15 pour cent sur la dite valeur pour les marchandises exclusivement étrangères, c'est-à-dire, pour celles qui n'ont pas leurs similaires parmi les produits Roumains. On a voulu compenser ainsi, postérieurement à l'achat à l'étranger, les droits de sortie perçus par les Douanes étrangères, les frais de transport, d'assurance, et autres.

Une autre exception, de même nature, est créée en faveur des marchandises tarifées *ad valorem*. Les droits à percevoir sur ces marchandises seront calculés d'après leur valeur au lieu et au moment où elles seront présentées pour être douanées.

En l'absence de Conventions Commerciales avec les Puissances étrangères, le Tarif des droits de Douane ne peut être élaboré que par une Commission Roumaine, dans les conditions exigées par l'Article 6. Nous serons prêts cependant à admettre que ce travail soit confié à une Commission Mixte, aussitôt que nos relations commerciales seront réglées par une Convention spéciale avec les Puissances étrangères. La seule prohibition qui soit créée, et qui n'existait pas jusqu'à ce jour, est celle relative à l'importation de vins ordinaires. (Article 10, alin. 5.)

Cette disposition est nécessaire pour encourager l'industrie nationale, surtout alors que nos vins sont frappés aux frontières étrangères de taxes telles qu'elles équivalent à une véritable prohibition. Le jour où les taxes qui frappent nos vins à l'étranger auront été diminuées, nous serons heureux de lever à notre tour la prohibition sur l'importation des vins étrangers, et d'admettre, sur la base d'un Traité conclu directement avec nous, des taxes modérées, ou peut-être même le libre échange des vins.

Par l'exemption de droits de Douane à l'exportation (Article 9) en faveur de plusieurs produits de notre sol et de notre industrie, tels que le sel, les tabacs en feuille ou préparés, les vins et vinaigres, les eaux-de-vie, la bière, le goudron, les produits des mines et autres, nous encourageons, il est vrai, notre industrie, mais nous procurons en même temps par ces exemptions d'importants avantages au commerce étranger.

Ce même effet résulte des exemptions pour l'importation prévues à l'Article 8.

L'Article 15 établit des dispositions utiles et avantageuses pour le transit des marchandises en les exemptant de tout droit de Douane à l'entrée et à la sortie. Mais il va sans dire que nous ne renonçons pas au droit de transit. Ce droit sera fixé par des tarifs généraux (*vide* Article 136). Cependant nous serions disposés à le supprimer en faveur de tout pays étranger dont le Gouvernement conclurait avec nous un Traité de Commerce.

L'Article 68 donne à l'Administration des Douanes le droit de visiter les navires qui entrent dans nos ports, pour s'assurer si le chargement effectif correspond aux déclarations des registres. Cette disposition ne peut soulever aucune objection, car elle est partout adoptée pour garantir les intérêts du fisc.

La franchise de certains ports, tels que Braïla, Galatz, Ismaïl, facilite à la contrebande un développement des plus dommageables pour l'Etat. D'après les dispositions du Titre IV de la Loi, ces villes cesseront d'être ports francs à partir du 1^{er} Janvier, 1876. A cette date, les dites communes devront avoir construit des magasins et des entrepôts. La création de ces entrepôts écartera la conséquence fâcheuse de la franchise des ports, à savoir la contrebande, et conservera tous ses effets utiles, c'est-à-dire, les avantages que ne peut manquer de procurer au commerce la faculté de déposer provisoirement sur le territoire Roumain certaines marchandises avec exemption de tout droit de Douane moyennant que plus tard elles soient transportées ailleurs, ou introduites dans le pays, après paiement, dans ce dernier cas, des droits d'importation.

Telles sont les principales dispositions de la nouvelle Loi douanière, surtout en ce qui concerne le commerce étranger. Revenons maintenant sur notre droit de régler les questions de Douane. A ce propos, il convient de rappeler que, d'après la science de l'économie politique, les taxes de Douane sont des contributions indirectes, c'est-à-dire, qu'elles ne sont pas payées directement par le consommateur. Ces taxes sont acquittées par les commerçants à la frontière, et augmentent pour les consommateurs le prix des marchandises. Comme impôts, ces taxes forment une source de revenus, et permettent de faire face aux dépenses publiques.

Selon le droit des gens, chaque nation a la faculté d'établir, d'élever, ou d'abaisser les tarifs des droits de Douane, et même de prohiber l'importation ou l'exportation d'une marchandise. La Douane constitue donc un droit d'administration intérieure. La Roumanie a toujours exercé ce droit ; c'est un fait qu'il serait difficile de contester.

Pour affirmer l'indépendance de nos Douanes, je me base non seulement sur les droits qui résultent des Capitulations conclues avec la Turquie (Capitulations reconnues et consacrées par les Puissances signataires du Traité de Paris) mais aussi sur des précédents qui prouvent jusqu'à l'évidence que, même dans la pratique, nous avons de tout temps joui de l'indépendance de nos Douanes.

En effet, je puis établir que les Traités de Commerce conclus par la Turquie à différentes époques n'ont jamais été appliqués en Roumanie, malgré la mention que ces Traités faisaient de notre pays.

Si nous nous reportons à la période la plus triste de notre histoire, nous verrons que nous avons pleinement et sans contestation joui du droit de liberté douanière. Cette vérité est confirmée par un acte que le Prince de Moldavie signait en l'année

1784, en faveur des commerçants sujets Autrichiens. Il est stipulé dans cet acte que les Autrichiens ne paieront pour l'importation et l'exportation des marchandises que les droits de Douane conformément aux tableaux élaborés et établis par la Chancellerie Princièrè dans le courant de l'année. —

En 1838 et les années suivantes, les Traités de Commerce conclus entre la Turquie et les différentes Puissances ne furent pas non plus appliqués dans les Principautés. La Moldavie et la Valachie continuèrent à jouir de leur régime exceptionnel, sans rien changer à leurs tarifs.

Il en fut de même pour les Traités de Commerce que la Porte conclut postérieurement (1861 et 1862) et qu'elle vient de dénoncer.

L'examen des dispositions de ces Traités suffit pour établir la conviction qu'ils n'ont jamais reçu d'exécution en Roumanie.

Tous ces Traités établissent :—

1. Que les droits d'exportation des produits du sol et de l'industrie de l'Empire Ottoman seront de 8 pour cent, et que ces droits seront diminués chaque année de 1 pour cent, jusqu'à réduction définitive au bout de 7 ans, à une taxe fixe de 1 pour cent *ad valorem*.

2. Que les droits d'importation en Turquie des produits du sol et de l'industrie seront de 8 pour cent *ad valorem*.

3. Que le Tarif des droits de Douane qui sera discuté et admis par les Commissaires nommés *ad hoc* restera valable pendant sept ans.

4. Que le transit des marchandises importées en Turquie pour être réexpédiées dans d'autres pays sera réduit à 2 pour cent, et, au bout de huit ans, à une taxe fixe et définitive de 1 pour cent. Et,

5. Que l'importation du tabac sous toutes ses formes, du sel, et des munitions de guerre, est prohibé.

Relativement au 1^{er} et au 2^{me} point, j'observerai que les droits pour l'importation et l'exportation ont différé et diffèrent en Roumanie. En effet, d'après nos lois propres, le droit d'exportation n'a été et n'est chez nous que de 1 pour cent, et ce droit même a été souvent supprimé. Quant au droit d'importation, cette taxe n'est que de 7½ pour cent.

Relativement au 3^{me} point, nous établirons que le Tarif des droits de Douane est chez nous discuté et décidé tous les ans, conformément à la loi Roumaine sur la matière, et que l'existence de cette loi est reconnue par toutes les Puissances étrangères qui envoient régulièrement chaque année des Délégués au sein de la Commission chargée d'examiner et d'établir le Tarif annuel.

Sur le point 4, je rappellerai que le transit des marchandises a été et est de 1 pour cent sur notre territoire.

Enfin, sur le point 5, j'observerai qu'à côté des objets qui y sont mentionnés, la Loi Roumaine de 1867 sur les spiritueux, renouvelée par celle de l'année courante, a également prohibé l'importation des alcools ordinaires. J'ajouterai que, d'après les dispositions des dites lois, on procède chez nous, pour constater la qualité du liquide, à une analyse chimique, et dans les dossiers du Ministère des Affaires Etrangères se trouvent plusieurs demandes faites par les Représentants des Puissances garantes au sujet, du plus ou moins d'impartialité de ces analyses, mais sans que jamais le droit de prohibition soit mis en discussion, ce qui implique la reconnaissance de ce droit.

Toutes les Puissances étrangères sont entrées en rapport avec le Gouvernement Roumain pour régler directement les relations commerciales réciproques. A l'appui de cette assertion, on peut citer la note du 31 Janvier, 1870, adressée au Ministère des Affaires Etrangères par MM. Green, Agent et Consul-Général d'Angleterre; K. Zulauf, Agent et Consul-Général d'Autriche-Hongrie; et Mellinet, Agent et Consul-Général de France, par laquelle ces trois Agents, au nom du Corps Diplomatique, par suite des négociations commencées sur les droits d'accise (d'octroi), déclarent admettre pour les articles confectionnés à l'étranger l'imposition, sous le titre d'accise au port de débarquement en Roumanie, d'une taxe spéciale de 2 pour cent d'après le tarif d'importation.

De tout ce qui est exposé plus haut, il résulte que les droits de la Roumanie, dans la question qui nous occupe, ont été reconnus en fait, et que les Puissances étrangères ont constaté par là combien il serait impossible, sinon même inique, de nous imposer leurs Traités de Commerce avec la Turquie. En effet, en vertu de l'Article XXIII du Traité de Paris, qui assure à la Roumanie une pleine liberté commerciale, l'application de ces Traités à notre territoire ne peut se soutenir.

Il est inutile d'invoquer aussi, à cette occasion, l'Article VIII de la Convention de Paris, qui, pour assurer l'indépendance de notre administration, a stipulé que les Traités

conclus par la Turquie avec les Puissances étrangères ne nous seront applicables qu'autant qu'ils ne porteront pas atteinte à nos immunités.

Ainsi les immunités d'une administration distincte et indépendante sont assurées à la Roumanie, et la Douane fait, sans contredit, partie de ces immunités. Une modification à notre régime douanier ne peut donc être introduite qu'avec le consentement du pays, par suite de négociations auxquelles il serait admis à participer. En un mot, les modifications ne peuvent s'effectuer qu'en vertu de Conventions spéciales conclues directement entre la Roumanie et les Puissances étrangères.

(Translation.)

OUR right of dealing with questions relating to the Customs can be sustained as well from the point of view of pure theory as from that of the political situation which we have acquired by the Treaties, the facts and the precedents created, recognized and held sacred by all foreign Powers.

The object of this Law is to take the place of different regulations by virtue of which our Customs have been administered until the present time, and to secure our frontier police.

The customs dues must be fixed by general tariffs and by Conventions, which would be concluded with foreign States (Article 2). The mode of taxation of commodities at the Custom House has been, and still is, defective in Roumania, for the *ad valorem* principle of taxation is alone followed, which causes numerous frauds on the part of importers, or of those who, in passing through the Custom House, make declarations of value greatly below the truth, and which also gives rise to different abuses and arbitrary acts on the part of the officials in charge of the Custom-houses.

The new Law (Article 3) admits the much juster principle, which is also more advantageous both to the Treasury and to the merchants, who are obliged to pay the Customs dues, that commodities shall, with few exceptions, be taxed by weight, measurement, or number, according to their nature, and that some only will be charged for *ad valorem*.

This principle has already been admitted in different countries.

Article 4 lays it down that the basis of the charges on commodities shall be their average value in the Bucharest market at the moment of the elaboration of the Tariff, not, as hitherto, their value at the place of export.

But it does not follow from this that the commodities will be more heavily taxed, for the basis which will serve as a rule for the scale of charges will be the gross value, which will be seen to be an advantage in favour of the merchant, on considering the difference of price when the goods are sold in detail, and pass through three or four hands before reaching the consumer.

It is, again, with the object of avoiding the infliction of too heavy taxes upon commerce, that Article 4 provides for a reduction of from 10 to 15 per cent. on the above mentioned value, for exclusively foreign commodities, *i.e.*, for those to which there is no similar product in Roumania. It is desired by this means to compensate, after the purchase of the goods abroad, for export dues levied by foreign custom-houses, freight, insurance, and other expenses.

Another exception, of the same kind, is made in favour of commodities taxed *ad valorem*. The dues to be levied upon these commodities will be calculated upon their value at the place where, and the time when, they pass through the Custom-house.

In the absence of commercial Conventions with foreign Powers, the Tariff of Customs Dues can only be drawn up by a Roumanian Commission, under the conditions required by Article 6. We shall, however, be ready to agree that this labour should be entrusted to a Mixed Commission, as soon as our commercial relations are determined by a Special Convention with the foreign Powers. The only prohibition now created, which did not exist before, is that relative to the importation of cheap wines. (Article 10, line 5.)

This regulation is necessary for the encouragement of the national industry, especially while our wines are taxed at foreign frontiers to an amount equivalent to absolute prohibition. The day that the taxes imposed upon our wines abroad are reduced, we shall be happy, in our turn, to take off the prohibition from the importation of foreign wines; and, upon the basis of a Treaty concluded directly with us, to agree to moderate taxes, or perhaps even to a free interchange of wines.

By the remission of customs dues on exportation (Article 9), in favour of several products of our soil and our industry, such as salt, tobacco in leaf or manufactured,

wines and vinegars, brandies, beer, pitch, the products of mines, &c., we encourage, it is true, our own industry, but at the same time we procure by these remissions important advantages to foreign commerce.

The same effect follows from the exemptions on importation provided by Article 8.

Article 15 lays down useful and advantageous rules for the transit of commodities, by exempting them from all Customs dues on entering or leaving the country. But it is evident that we do not give up transit dues. These dues will be fixed by general tariffs (*vide* Article 136). However, we should be disposed to suppress them in favour of any foreign country whose Government concluded a Commercial Treaty with us.

Article 68 gives to the Custom-house officers the right of examining vessels which enter our ports, to satisfy themselves that the actual cargo corresponds with the declarations of the registers. This regulation can meet with no objection, for it is everywhere adopted to guard the interests of the Treasury.

The freedom of certain ports, such as Ibraila, Galatz, and Ismail, facilitates a development of smuggling which is very damaging to the State. In accordance with the provisions of Section IV of the Law, these towns will cease to be free ports on the 1st of January, 1876. By that date, the said municipalities must have built storehouses and magazines. The erection of these magazines will do away with the annoyance consequent upon the freedom of the ports, *viz.*, smuggling, and will retain all its useful effect, *i.e.*, the advantages which cannot fail to result to commerce from the faculty of depositing provisionally on Roumanian territory certain goods, with exemption from all Customs dues, on condition that they shall subsequently be removed elsewhere, or introduced into the country, after payment, in the latter case, of the import duties.

Such are the chief provisions of the new Customs Law, especially as regards foreign commerce. Let us now return to our right of dealing with questions relating to the Customs. On this head it is well to call to mind that, according to the science of political economy, Customs duties are indirect contributions, that is to say, they are not paid directly by the consumer. These charges are paid by the merchants at the frontier, and raise the price of the commodities for the consumers. As taxes, these charges are a source of revenue, and make it possible to meet the public expenditure.

By the law of nations, every country has the power of establishing, raising, or lowering its tariffs of Customs duties, and even of prohibiting the importation or exportation of a commodity. The Custom-house, therefore, constitutes a right of internal administration. Roumania has always exercised that right: that is a fact which it would be difficult to contest.

In affirming the independence of our Customs, I rely not only upon the rights consequent upon the capitulations concluded with Turkey (recognized and held sacred by the signatory Powers of the Treaty of Paris), but also upon precedents which prove to demonstration that, even in practice, we have from all time enjoyed the independence of our Customs.

In fact, I can establish that the Treaties of Commerce concluded by Turkey at different periods have never been applied in Roumania, notwithstanding the mention which they made of our country.

If we refer to the saddest period of our history, we shall see that we fully and incontestably enjoyed the right of free administration of the Customs. This fact is confirmed by an Act which the Prince of Moldavia signed in the year 1784, in favour of merchants who were Austrian subjects. In this Act it is stipulated that the Austrians shall pay, for the import and export of goods, only the Customs duties, agreeably to the tables drawn up and established by the Prince's Government in the course of the year.

Neither were the Treaties of Commerce concluded between Turkey and the different Powers in 1838 and the following years applied to the Principalities. Moldavia and Wallachia continued to enjoy their exceptional system, without making any change in their tariffs.

The same was the case with regard to the Treaties of Commerce subsequently concluded by the Porte (1861 and 1862), which it has just denounced.

An examination of the provisions of these Treaties is sufficient to establish the conviction that they have never been put into force in Roumania.

They all provide—

1. That the export duties upon the products of the soil and of the industry of the Ottoman Empire shall be 8 per cent., and that these duties shall be reduced yearly by

1 per cent., until their definitive reduction at the end of seven years to a fixed charge of 1 per cent. *ad valorem*.

2. That the duties on importation into Turkey of the products of the soil and of industry shall be 8 per cent. *ad valorem*.

3. That the Tariff of the Customs duties, which shall be discussed and agreed to by the Commissioners appointed *ad hoc*, shall remain in force for seven years.

4. That the transit dues upon goods imported into Turkey to be forwarded into other countries shall be reduced to 2 per cent., and, after eight years, to a fixed and definitive charge of 1 per cent. And,

5. That the importation of tobacco in all its forms, of salt, and of munitions of war, is prohibited.

With regard to the 1st and 2nd points, I will observe that the import and export duties have differed and still differ in Roumania. In fact, according to our own laws, the export duty has been and is only 1 per cent., and even this duty has been often suppressed. As to the import duty, it is only $7\frac{1}{2}$ per cent.

With regard to the 3rd point, we shall establish that the tariff of our Customs duties is discussed and decided every year, in conformity with the Roumanian law upon the subject, and that the existence of this law is recognized by all the foreign Powers which regularly every year send Delegates to the Commission charged with the examination and establishment of the annual tariff.

On point 4, I will recall the fact that the transit dues have been and are 1 per cent. on our territory.

Finally, on point 5, I will observe that, besides the objects therein mentioned, the Roumanian Law of 1867 on spirituous liquors, renewed by that of the present year, also prohibited the importation of common alcohols. I will add that, according to the provisions of the said laws, chemical analysis is resorted to, to establish the quality of the liquid, and in the archives of the Foreign Office there are several requests, made by the Representatives of the guaranteeing Powers, with regard to the greater or less degree of impartiality shown in these analyses, but without the right of prohibition having even been questioned, which implies the recognition of this right.

All foreign Powers have entered into relations with the Roumanian Government with a view to the direct regulation of their mutual commercial regulations. In support of this assertion may be cited the note of the 31st of January, 1870, addressed to the Foreign Office by Messrs. Green, British Agent and Consul-General; K. Zulauf, Austro-Hungarian Agent and Consul-General; and Mellinet, French Agent and Consul-General; by which these three Agents, in the name of the Diplomatic Body, in consequence of the negotiations instituted upon the excise duties (*octroi*), declare their agreement to the imposition upon articles manufactured abroad of a special tax of 2 per cent., in accordance with the tariff of import duties, under the head of excise at the port of unshipment in Roumania.

From the above statements it is clear that the rights of Roumania in the question before us have been practically recognized, and that foreign Powers have thus admitted the impossibility, if not the injustice, of imposing upon us their Commercial Treaties with Turkey; in fact, by virtue of Article XXIII of the Treaty of Paris, which secures to Roumania complete commercial freedom, the application of these Treaties to our territory falls to the ground.

It is unnecessary further to refer, upon this occasion, to Article VIII of the Convention of Paris, which, to secure our administrative independence, stipulated that the Treaties concluded by Turkey with foreign Powers shall only be applicable to us in so far as they do not touch our immunities.

Thus the immunities of a distinct and independent administration are secured to Roumania, and the possession of a Custom-house is incontestably one of them. A modification of our system of customs can, therefore, only be introduced with the consent of the country, after negotiations in which it is admitted to participate. In a word, modifications can only be effected in virtue of special Conventions concluded directly between Roumania and foreign Powers.

No. 5.

Sir H. Elliot to the Earl of Derby.—(Received September 28.)

(Extract.)

Therapia, September 15, 1874.

IF there is reason to expect that the conclusion of a Commercial Treaty between Austria and the Principalities will be followed by others, by Germany and Russia, and

if, as is possible, this is known to Prince Charles' Government, there is little prospect that any representations by the Governments which are disposed to support the rights of the Porte will be listened to.

Under the conviction that the best thing for all parties would be the acquiescence of the Porte in the wish of Austria, I shall continue to express that opinion to them as friendly and unobtrusive advice upon a question which the Sultan's Government is entitled to judge for itself.

No. 6.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, October 14, 1874.

I HAVE received your Excellency's despatch of the 15th ultimo, respecting the intention of Roumania to conclude Commercial Treaties with foreign Powers, and the encouragement which appears to be given to this scheme by Russia, Austria, and Germany.

Her Majesty's Government entirely approve the language which your Excellency proposes to hold to the Porte upon this subject. They are convinced that the pretensions of Roumania are inconsistent with the terms of existing Treaties, and they cannot readily bring themselves to believe that any of the Powers who were parties to the Treaty of Paris would consent to a breach of that important international agreement.

Should it, however, appear probable that any of the great Powers would disregard the stipulations of that Treaty with respect to the authority of the Porte in the Principalities, an event which might give rise to the most serious complications, Her Majesty's Government are of opinion that the Porte would do well to consider how far it might be possible to make such harmless concessions to the Government of Roumania with respect to Commercial Treaties as should satisfy the United Provinces and the Powers who might support them, and at the same time raise stronger barriers against the agitation for political independence so unadvisedly entered upon by Prince Charles and his Councillors.

I am, &c.
(Signed) DERBY.

No. 7.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, October 31, 1874.

THE Turkish Ambassador called at the Foreign Office on the 24th instant, and communicated to me a telegram which he had received from Aarifi Pasha respecting the action of the Representatives of Austria, Germany, and Russia in the affairs of Roumania.

In making this communication he reminded me that on a former occasion he had stated that he could not bring himself to believe that the three Powers whose policy was based on Conservative principles, could take part in a flagrant infraction of the Treaty, and become accomplices in the revolutionary tendency of a certain party in the Principalities. I might therefore judge of the astonishment felt by his Government by the late unexpected communications to the Porte, by which it would seem that the Powers had lost sight of the fact that a Treaty of Commerce concluded directly with the Principalities, is, in presence moreover of a protest from the Porte, an illegal act destitute of all value, and not binding on either the Suzerain or the Principalities themselves.

His Excellency further remarked that in the identic instructions given by the three Ambassadors to their dragomans, and communicated by them to Aarifi Pasha, it was declared that the three Powers have the right to conclude Treaties of Commerce direct with the Principalities, whilst in the same instruction, instead of using the term Treaties of Commerce, they have been careful to make use of the expressions "arrangements de douane, de tarifs, et de commerce," as though a mere change of words could alter the character and nature of an international act; in fact, an international arrangement of customs, of tariffs, and of commerce is an exact definition of a Treaty of Commerce.

If the Powers had such a right they would have exercised it previously, now there is no instance of a Treaty of Commerce, or even a commercial arrangement which has been concluded direct by a foreign Power with the Principalities at any period for centuries past. Added to which this question is not open to discussion since the VIIIth Article of the Convention of 1858 explicitly provided that the International Treaties which might be concluded by the Suzerain Power with foreign Powers, should be applicable to the Principalities as before.

The three Powers base their desire to conclude Treaties of Commerce with the Principalities upon the plea of their material interests and of the position of those Provinces. But the Porte offers to give its concurrence to the admission of any special arrangement which the Principalities may judge necessary in furtherance of their international commerce.

With regard to the concessions allowed to the Khedive of Egypt, and which seem to be invoked in favour of the pretensions of the Principalities, Musurus Pasha remarked that there was no comparison between the two cases. The administrative autonomy of the Principalities has been definitely determined by the provisions of international Acts, and no modifications can be made in those provisions without the consent of the Contracting Powers, whilst the administrative organization of Egypt is based upon the laws of the Empire, and any modification required emanates exclusively from the authority of the Sultan; besides which, the concessions alluded to have been sanctioned by an Imperial Firman. It must also be remembered that Egypt is a Province, the population of which is devoted to the Sultan, and of which the administrative Government has never allowed the infraction of Imperial Firmans, and has, consequently, merited the entire confidence of the Imperial Government.

His Excellency added that the Porte, having loyally respected the provisions contained in her Treaties with foreign Powers, had a right to expect that those Powers would be equally anxious to observe them on their side.

In insisting on this right the Porte invokes the principle which constitutes the foundation of every international act, and according to which no Power can liberate itself from the engagements of a Treaty nor modify the stipulations thereof unless with the consent of the Contracting Powers by means of an amicable arrangement—a principle which the Porte regarded as all the more sacred inasmuch as it had been laid down in a solemn Act annexed to the 1st Protocol of the Conference held in London in 1871.

His Excellency concluded by expressing his fervent hope that Her Majesty's Government would grant the friendly support sought for in the telegram from Aarifi Pasha, with the object of putting a stop to an act which, in whatever light it might be viewed, would deal a grave blow to Treaties, and would open the door to many future complications.

I stated to the Turkish Ambassador in reply, that the observations which he had addressed to me, and the telegraphic despatch which he had been good enough to communicate, should receive the careful attention of Her Majesty's Government.

Her Majesty's Government were of opinion that the Principalities of Moldavia and Wallachia did not possess authority to conclude Commercial Treaties with Foreign Powers, and concurred with the Porte that such Treaties, if entered into, would be in violation of existing Treaty engagements. At the same time, Her Majesty's Government had not hesitated to advise the Porte to make such timely concessions as might serve to remove any substantial grievance on the part of the Principalities, so far as that could be done without injury to the political integrity of the Ottoman Empire.

Her Majesty's Government could not pledge themselves to any definite course of action in regard to the joint representation addressed to the Porte by the Governments of Austria, Russia, and Germany, as reported in the telegraphic despatch which his Excellency had communicated to me. I did not doubt that a copy of that document would shortly be received from Her Majesty's Ambassador at Constantinople, and, when they were in possession of it, Her Majesty's Government would be better able to judge how the case stood.

I am, &c.
(Signed) DERBY.

Sir H. Elliot to the Earl of Derby.—(Received November 5.)

(Extract.)

Therapia, October 23, 1874.

I HAVE been furnished with the inclosed copy of the instruction of the German Ambassador to his first Dragoman, which was communicated two days ago to the Porte, on the subject of the commercial arrangements with the Danubian Principalities.

Inclosure in No. 8.

Instructions addressed by the German Ambassador at the Porte to his First Dragoman, October 20, 1874.

VOUS n'ignorez pas que la question du droit des Principautés Vassales de conclure des Conventions Commerciales avec les Puissances étrangères a surgi de fait dès la dénonciation des Traités de Commerce par la Sublime Porte. La Roumanie, interprétant en faveur de ce droit les Traités qui assurent son autonomie, a déjà promulgué une loi intérieure qui modifie considérablement, à date du 1^{er} Janvier, 1875, les dispositions douanières existantes.

Les intérêts matériels importants engagés dans cette question obligent le Cabine Impérial à prendre une détermination pratique.

Nous ne voulons, en le faisant, ni affaiblir ni resserrer les liens qui unissent les Principautés Vassales à la Cour Suzeraine. Nous entendons, au contraire, ne leur porter aucune atteinte. Mais la position géographique de ces Principautés, et les institutions particulières qui les régissent, ne permettent pas de les assimiler aux autres provinces sujettes de l'Empire Ottoman. Elles jouissent de privilèges spéciaux et d'une autonomie intérieure qui entraînent des relations de douanes et de commerce avec les autres pays. Les Puissances dont les sujets se trouvent en contact avec ces Principautés doivent nécessairement tenir compte de ces considérations.

Sans entrer en controverse sur le point de droit impliqué dans la présente circonstance, il suffit de constater que les Gouvernements étrangers se trouvent constamment forcés de s'adresser aux autorités locales des Principautés Vassales pour assurer la marche régulière des affaires commerciales de leurs nationaux.

Les Traités conclus avec la Turquie reconnaissent aux Principautés une administration douanière séparée, mais l'absence d'engagements contractuels entre ces administrations et celles des autres Etats jette souvent une perturbation regrettable dans les relations douanières respectives. Ces inconvénients augmentent au fur et à mesure du développement progressif des voies de communication qui servent à multiplier les échanges avec les Puissances voisines, et à donner une impulsion nouvelle au transit des produits des autres pays.

Nous ne saurions laisser périliter des intérêts positifs pour des questions de pure forme.

Vous êtes chargé en conséquence de prévenir le Grand Vézir, ainsi que le Ministre des Affaires Etrangères, que nous nous croyons en droit de conclure avec les Principautés Vassales de la Turquie des arrangements directs et spéciaux de douane, de tarif, et de commerce. Vous donnerez en même temps au Gouvernement Ottoman l'assurance formelle que ces arrangements, dénués de tout caractère politique, ne seraient signés que par les Ministères et Administrations compétents, et non revêtus de la sanction Souveraine. De cette façon ils ne sauraient nullement affaiblir aucun des droits de Sa Majesté le Sultan, ni modifier la position garantie par les Traités aux Principautés Vassales vis-à-vis de la Sublime Porte.

(Translation.)

You are aware that the question of the right of the vassal Principalities to conclude Commercial Conventions with foreign Powers has practically arisen since the denunciation of the Treaties of Commerce by the Sublime Porte. Roumania, interpreting in favour of this right the Treaties which secure her autonomy, has already promulgated an internal law, which, dating from the 1st January, 1875, modifies considerably the existing Custom-house regulations.

The important and material interests engaged in this question compel the Imperial Cabinet to come to a practical determination.

In so doing, we wish neither to weaken nor to strengthen the ties which unite the vassal Principalities to the Suzerain Court. We mean, on the contrary, not to interfere in any way with them. But the geographical position of those Principalities, and the particular institutions which rule them, do not allow of their assimilation to the other provinces subject to the Ottoman Empire. They enjoy special privileges and an internal autonomy which entail Customs' and commercial relations with the other countries. The Powers whose subjects are in contact with those Principalities must necessarily pay attention to these considerations.

Without entering into controversy on the question of right involved in the present circumstances, it is sufficient to state that the foreign Governments find themselves constantly obliged to address themselves to the local authorities of the vassal Principalities, to insure the regular progress of the commercial affairs of their subjects.

The Treaties concluded with Turkey recognize for the Principalities a separate Custom-house administration, but the absence of engagements regularly entered into between these administrations and those of the other States, often throws a regrettable confusion into the respective Custom-house relations. These difficulties increase in proportion to the progressive development of the channels of communication which serve to multiply the exchanges with the neighbouring Powers, and to give a new impulse to the transit of the productions of the other countries.

We could not allow positive interests to be endangered on account of questions of mere form.

You are consequently charged to inform the Grand Vizier, as well as the Minister for Foreign Affairs, that we hold that we have the right to conclude with the vassal Principalities of Turkey direct and special arrangements of Customs, tariffs, and commerce. You will, at the same time, formally assure the Ottoman Government that these arrangements, deprived of all political character, will be signed only by competent departments and administrations, and will not be countersigned by the Sovereign. In this manner they could not in any point weaken any one of the rights of His Majesty the Sultan, nor modify the position assured by the Treaties to the vassal Principalities as regards the Sublime Porte.

No. 9.

Aarifi Pasha to Musurus Pasha.—(Communicated to the Earl of Derby by Musurus Pasha, November 7.)

M. l'Ambassadeur,

Constantinople, le 28 Octobre, 1874.

POUR faire suite à mon télégramme du 22 Octobre, j'ai l'honneur de vous transmettre, ci-jointe en copie, l'instruction identique dont il y est fait mention, ainsi que la dépêche que j'ai cru devoir adresser à vos collègues de Vienne, de Berlin et de St. Pétersbourg, en présence de la démarche collective des trois Cabinets du Nord.

Dans cette dépêche je me suis attaché particulièrement, comme votre Excellence le verra, à maintenir le point de vue auquel la Sublime Porte s'est placée dès le début pour envisager la prétention des Principautés Danubiennes de conclure des Conventions Commerciales avec les Puissances. Nous persistons plus que jamais à croire que cette prétention, aussi présomptueuse dans la forme que peu soutenable dans le fond, est la négation même des droits de la Cour Suzeraine, tels qu'ils sont consacrés par le temps et confirmés par les actes solennels qui déterminent définitivement les conditions de l'existence politique de la Moldo-Valachie et de la Serbie. Les Puissances qui nous conseillent de céder sur un point si essentiel semblent ne pas tenir compte des considérations d'ordre majeur qui nous mettent dans l'impossibilité de déchirer de nos propres mains la dernière feuille du Traité de Paris. Nous ne voyons, d'ailleurs, ni la nécessité ni l'utilité d'un pareil sacrifice : ma réponse à la démarche en question suffit pour ôter jusqu'à l'apparence d'un motif plausible à l'entreprise des trois Cabinets du Nord, en leur offrant la perspective d'une transaction légale de nature à assurer le résultat qu'ils entendent poursuivre dans l'intérêt de leurs nationaux.

Je vous prie de faire valoir ces arguments auprès de Lord Derby. Je me plais à espérer qu'appréciant toute la gravité de la question qu'on vient de soulever, sa Seigneurie voudra bien reconnaître, dans ses sentiments éclairés, le besoin de plus en plus accentué d'une identité de vues et d'action entre les Puissances qui, au milieu de la perturbation générale causée par les efforts subversifs qui se produisent de toutes parts, cherchent encore leur point d'appui dans les Traités. En ce qui nous concerne, nous attachons une importance toute particulière à cette entente, qui offre à nos yeux un gage de force et de modération ; aussi serions-nous reconnaissants au Gouvernement

de Sa Majesté Britannique, s'il voulait bien s'associer à nous et aux Cabinets qui n'ont pas pris part à la démarche dont il s'agit pour obtenir une solution compatible avec l'état de choses qui repose sur la garantie collective des Puissances signataires du Traité de Paris.

Veuillez, &c.
(Signé) A. AARIFI.

(Translation.)

M. l'Ambassadeur,

Constantinople, October 28, 1874.

AS a sequel to my telegram of October 22, I have the honour to transmit to you herewith, in copy, the identic instruction, of which mention has been made, as well as the despatch which I thought it my duty to address to your colleagues at Vienna, Berlin, and St. Petersburg, in view of the collective step of the three Cabinets of the North.

In this despatch I have devoted myself particularly, as your Excellency will see, to maintaining the point of view taken by the Sublime Porte since the commencement in regarding the pretensions of the Danubian Principalities to conclude Commercial Conventions with the Powers. We hold more than ever to the belief that this pretension, which is as presumptuous in form as it is untenable in reality, is the exact negation of the rights of the Suzerain Court, such as they are established by time, and confirmed by the solemn acts, which determine definitely the conditions of the political existence of Moldo-Wallachia and Servia. The Powers, who advise us to yield on such an essential point, seem to pay no attention to the considerations of vital importance which make it impossible for us to tear with our own hands the last leaf of the Treaty of Paris. Besides, we do not see the need for, or the use of, such a sacrifice. My reply to the step in question is sufficient to deprive the undertaking of the three Cabinets of the North of the appearance of a plausible motive, by offering them the prospect of a legal transaction of a kind to secure the result which they intend to pursue in the interests of their subjects.

I beg you to put these arguments carefully before Lord Derby. I entertain the hope that his Lordship, appreciating all the gravity of the question that has been raised, will recognize, with his enlightened sentiments, the need more and more pressing for an identity of views and action among the Powers, who, in the midst of the general confusion caused by the subversive efforts which arise on all sides, still seek their support ("point d'appui") in the Treaties. As regards ourselves, we attach a special importance to this understanding, which seems to us to offer a pledge of strength and of moderation; we should be obliged to Her Britannic Majesty's Government if it would join us and those Cabinets which have not taken part in the step in question, to obtain a solution compatible with the state of things which rests on the collective security of the Powers who signed the Treaty of Paris.

(Signed) AARIFI.

Inclosure 1 in No. 9.

*Instructions addressed by the German Ambassador at Constantinople to his First Dragoman,
October 20, 1874.*

[See Inclosure in No. 8.]

Inclosure 2 in No. 9.

Aarifi Pasha to the Turkish Representatives at St. Petersburg, Vienna, and Berlin.

Constantinople, le 23 Octobre, 1874.

UNE démarche collective vient d'être faite au nom des trois Cabinets du Nord : les premiers drogmans des Ambassades d'Allemagne, d'Autriche-Hongrie, et de Russie m'ont communiqué une instruction identique de leurs chefs, concernant la faculté qu'auraient les Principautés Danubiennes de conclure des Conventions Commerciales avec les Puissances étrangères. J'ai l'honneur de vous transmettre, ci-joint, une copie de cette instruction.

Il en résulte, comme votre Excellence le verra, que les Cabinets de Berlin, de Vienne, et de St. Pétersbourg, se basant sur leurs intérêts matériels et sur la position des Principautés, déclarent avoir le droit de conclure avec elles des arrangements directs et spéciaux de douane, de tarif et de commerce. Ces Cabinets veulent bien cependant nous donner l'assurance que les transactions à intervenir n'auront aucun caractère politique.

Le prix que le Gouvernement Impérial attache à toute communication venant de la part des trois Puissances, amies et alliées de la Sublime Porte, lui fait un devoir de complaire à leurs vœux dans les limites du possible. Nous nous sommes constamment inspirés de ce principe, si bien que lorsque le Cabinet de Vienne a pris l'initiative d'une proposition tendant à obtenir en faveur des Principautés l'autorisation de conclure des arrangements commerciaux avec l'étranger, notre première pensée a été de chercher une combinaison de nature à concilier la sauvegarde des droits de la Sublime Porte avec les exigences de la situation.

Le Gouvernement Impérial apprécie pleinement les intérêts plus ou moins immédiats, plus ou moins considérables, engagés dans cette question ; il ne méconnaît ni ses intérêts ni la nécessité qui en découle au point de vue d'une détermination pratique. Il ne manquerait pas de se rallier à la démarche en question, si elle ne dépassait pas le but spécial qu'elle a apparemment pour objet d'atteindre.

Certes, en faisant cette démarche, les trois Puissances déclarent ne vouloir porter aucune atteinte aux liens qui unissent les Principautés à la Cour Suzeraine, ce dont nous prenons acte avec satisfaction ; mais nous sommes amenés en même temps à nous demander si le nouveau coup qui va être donné au Traité de Paris n'aura pas le même effet que ceux qui l'ont précédé, et s'il n'arrivera pas un jour où la volonté des hommes sera impuissante à arrêter le courant qu'on aura créé par une série d'infractions.

Cette réflexion ne nous est point suggérée par une méprise sur la position des Principautés. Nous connaissons l'étendue des privilèges dont elles jouissent sous le rapport administratif et commercial ; nous admettons aussi que les Puissances dont les sujets se trouvent en contact avec la Moldo-Valachie et la Serbie veuillent tenir compte des considérations découlant des conditions particulières de ces Principautés ; mais il nous serait difficile d'en arriver à une conclusion qui placerait la question sur tout autre terrain que celui des Traités.

Puisqu'il y a lieu de faire abstraction du point de droit, et d'éviter ainsi une discussion qui nous aurait infailliblement amenés à la nécessité de faire appel à l'opinion individuelle de chacune des Parties Contractantes du Traité de Paris, nous ne voyons plus guère qu'un côté de la question : celui du recours préalable des Gouvernements Princiers à la Cour Suzeraine. Il est évident que notre proposition laisse la voie ouverte à toute transaction légale ayant en vue d'assurer le résultat que les trois Cabinets du Nord entendent poursuivre dans l'intérêt de leurs nationaux. Les inconvénients résultant de l'absence d'engagements contractuels et accentués par le développement progressif des voies de communication sont de ceux qui, dans l'opinion de la Sublime Porte, peuvent parfaitement être écartés sans qu'il soit besoin de rechercher un terrain d'action en dehors des Traités.

Ce n'est point, comme on semble le supposer, une question de pure forme qui détermine notre attitude en cette circonstance. Le Prince Chancelier peut être assuré que des considérations d'ordre majeur nous font un devoir de ne pas nous départir de la ligne de conduite que nous nous sommes tracée dès le début. Nous aimons à espérer que Son Altesse voudra bien accueillir ces observations avec la même loyauté que celle que nous mettons à exprimer notre pensée.

Je vous prie de donner lecture de la présente dépêche au Prince Chancelier et d'en laisser copie à Son Altesse si elle le désire.

Veüillez, &c.
(Signé) A. AARIFI.

(Translation.)

Constantinople, October 23, 1874.

A COLLECTIVE step has just been taken in the name of the three Northern Cabinets ; the 1st Dragomans of the German, Austro-Hungarian, and Russian Embassies have communicated to me an identical instruction from their Chiefs, relative to the power of the Danubian Principalities to conclude Commercial Conventions with foreign Powers. I have the honour to transmit to you herewith a copy of this instruction.

It appears therefrom, as your Excellency will see, that the Cabinets of Berlin,

Vienna, and St. Petersburg, taking their stand on the ground of their material interests and of the position of the Principalities, declare that they have the right of concluding with them special and direct arrangements relating to matters of Customs, tariff, and commerce. These Cabinets are, however, so good as to inform us that these impending transactions will have no political character.

The value which the Imperial Government attaches to all communications coming from the three Powers, friends and allies of the Sublime Porte, makes it obligatory upon them to meet their wishes as far as that is possible. We are constantly actuated by this principle, so much so that when the Cabinet of Vienna initiated a proposal tending to obtain for the Principalities authority to conclude commercial arrangements with foreign countries, our first thought was to seek a combination which might reconcile the protection of the rights of the Sublime Porte with the exigencies of the situation.

The Imperial Government fully appreciates the interests, more or less pressing, more or less considerable, which are involved in this question; it recognizes both its interests and the consequent necessity, looking at it in the light of a practical solution. It would not fail to rally to the step in question, did not that step go beyond the special object which apparently it sought to attain.

It is true that, in taking this step, the three Powers declare that they have no wish to weaken in any degree the bonds uniting the Principalities to the Suzerain Court, and we take note of this with satisfaction; but we are led at the same time to ask ourselves whether the new blow about to be struck at the Treaty of Paris will not have the same effect as those which have preceded it, and whether the day will not come when man's will will be powerless to stem the current set in motion by a long series of infractions.

This reflection is not suggested to us by any misconception of the position of the Principalities. We are quite aware of the extent of the privileges enjoyed by them as regards administrative and commercial matters; we admit also that the Powers, whose subjects are in immediate contact with Moldo-Wallachia and Servia, wish to take into account the considerations which result from the special conditions of those Principalities, but it would be difficult for us to arrive at a conclusion which would place the question on any other ground than that of Treaties.

Since, then, it is expedient to put aside the question of right and thus to avoid a discussion which would infallibly have forced us to appeal to the individual opinion of each of the Contracting Parties to the Treaty of Paris, we can only see but one side of the question, viz., that of the preliminary appeal of the princely Governments to the Suzerain Court. It is evident that our proposal leaves the way free for any legal transaction which would have for object to secure the result which the three Northern Cabinets aim at in the interests of their subjects. The inconveniences which result from the absence of formal engagements, and which are brought out into stronger relief by the progressive development of the means of communication, are of the nature of those that, in the opinion of the Sublime Porte, can perfectly well be removed, without overstepping the limits imposed by Treaties.

It is not at all, as some seem to suppose, a question of pure form which influences our attitude in this conjuncture. The Prince Chancellor may rest assured that considerations of vital importance make it obligatory upon us not to deviate from the line of conduct which we traced out for ourselves at the commencement. We believe and hope that his Highness will receive these observations with a straightforwardness equal to that with which we have expressed our ideas.

I request you to read this despatch to the Prince Chancellor, and to leave a copy of it with his Highness should he desire it.

(Signed)

AARIFI.

No. 10.

The Earl of Derby to Lord Odo Russell.

My Lord,

Foreign Office, November 10, 1874.

THE German Ambassador called upon me to-day, and, by desire of Prince Bismarck, as he said, gave an explanation of the course adopted by his Government on the question of Roumanian Commercial Treaties.

His Excellency assured me that Germany had given, and would give, no

encouragement to any designs which the Roumanian Government might have formed of bringing about the separation of the Principalities from the Turkish Empire; nor was it the wish of his Government to take any step that could injuriously affect the position secured by Treaties to Turkey. The question now under discussion did not practically affect any German interest; the inducement to his Government to take it up had been, partly, the wish to support that of Austria in a matter to which the latter attached great importance, partly also the desire of preventing future complications which were likely to arise unless an arrangement of some sort could be come to. He believed that the inclination of the Porte was to deal with the question in a conciliatory spirit, and, if so, a settlement ought not to be difficult to arrive at. Prince Bismarck, he said, attached great importance to the co-operation of England, and especially desired that Her Majesty's Government should clearly understand what his principle of action had been.

I said, in reply, that I had heard his Excellency's language with much pleasure, and trusted that it might even now not be impossible to attain a satisfactory solution. He must be aware that England had never admitted in principle the demand now made by the Governments of the Principalities, which, to me, appeared clearly contrary to Treaty Stipulations. I could not, therefore, do otherwise than regret that an attempt had not been made to induce the Porte voluntarily to concede the privilege in question, as a matter of favour, and not of right, which would equally have effected the object in view without any violation of Treaty, and without creating a dangerous precedent for the future. I agreed with his Excellency as to the good sense and moderation of the language held by the Porte, and he might rely on the influence of Her Majesty's Government being employed to prevent any extreme course being adopted and to smooth down, as far as might be possible, whatever unpleasantness might now exist.

I am, &c.
(Signed) DERBY.

No. 11.

The Earl of Derby to Lord Lytton.

(Extract.)

Foreign Office, November 11, 1874.

THE French Ambassador called upon me to-day and stated that his Government would be glad to be informed of the views taken by Her Majesty's Government of the position of the question of Commercial Conventions with the Principalities which had been raised in the correspondence between the Governments of Austria, Germany, Russia, and the Porte. He was instructed to make this inquiry in order that there might be co-operation, if possible, between his Government and that of Her Majesty, and that, in any case, there might be a perfectly frank exchange of ideas.

His Excellency expressed it as the opinion of his Government that it was not on general grounds desirable to give a disproportionate importance to the question, especially as it is not very easy to see what action can be taken upon it. He thought it was neither the wish nor the interest of his Government to revive the Eastern question generally, more particularly under fresh circumstances, when the Western and Eastern Powers appeared to be ranged on opposite sides.

To these observations I gave a general concurrence. Some discussion then followed on matters of detail, which it is not necessary for me to recapitulate.

I expressed a wish, before pronouncing any decided opinion, to learn what the Porte itself was prepared to do or to suggest. The difficulty was one which concerned the Turkish Government in the first instance and which might have been avoided had the advice of France and England been adopted, and it would be well to know the view the Porte took of it. It appeared at least doubtful whether any attempt to induce the three Powers to reconsider their course would be productive of advantage, as it seemed unlikely that either they or the Government of the Principalities would consent to refer to the Porte a question which they had publicly declared it to be their right and their intention to settle independently.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, November 12, 1874.*

THE Turkish Ambassador called upon me to-day and asked the opinion of Her Majesty's Government on the question of the claim of Austria, Germany, and Russia, to conclude commercial Conventions with the Governments of the United Principalities.

I expressed to his Excellency in reply the satisfaction which Her Majesty's Government felt at the moderation and good sense shown in the note of the Turkish Government.

I stated that Her Majesty's Government agreed with the Porte in considering the view taken by the three Powers of the right of the Principalities to conclude separate Commercial Conventions as untenable and the action proposed to be taken by them therefore as contrary to Treaty engagements. It, however, appeared to me that the three Powers were too much compromised to recede from the position which they had taken up, while it would be useless to ask the Government of the Principalities to apply at Constantinople for permission to contract Commercial Conventions since we knew that they would not consent to do so.

His Excellency agreed with me in this.

I added that merely to protest would be of little practical use. The question, therefore, was what was there that remained to be done. Had his Excellency any suggestion to offer?

His Excellency said that he was not instructed to make any proposal, but that he personally considered that there should be an exchange of opinions between Her Majesty's Government and those of the three Powers with a view to come to some agreement as to the proper construction of the Treaty.

He thought that the question of form might be arranged if as a means of settling the difference and on the application of some one or more of the Powers the Porte should freely grant to the Governments of the Principalities the right now in dispute of making these Conventions.

I assured his Excellency that Her Majesty's Government would give the suggestion which he had offered their best consideration.

I am, &c.
(Signed) DERBY.

No. 13.

The Earl of Derby to Lord Odo Russell.

My Lord, *Foreign Office, November 13, 1874.*

IN the course of a conversation which I had this day with Count Munster, I informed his Excellency of the desire felt by Her Majesty's Government to settle the question of Roumanian Commercial Treaties in a manner which should at once give to the Principalities the substantial advantages which they had in view, and show the respect felt by the Powers for existing engagements as they concerned the rights of the Porte.

I was not prepared, I said, to lay before Count Munster any definite scheme for the purpose of settling the question, but it seemed to me all but certain that the Porte would at once and without hesitation concede the rights in dispute, provided that its authority to grant or to withhold them were recognized. The question was, for the Turkish Government, one of form rather than of substance, and such being the case, it seemed a pity that anything should be done which would have the appearance of throwing discredit on Treaties which both our Governments were anxious to maintain, while a simple and unobjectionable solution could be arrived at.

Was it impossible, I inquired, that the Powers should agree to ask the Porte for the requisite permission? It might no doubt be said that some of them had proposed to dispense with it; but, inasmuch as there was among them an avowed difference of opinion as to the propriety of so doing, they might very well join in a procedure which had the advantage of uniting them all and which would lead with no appreciable delay to the result which they desired to bring about.

His Excellency promised to communicate what I had said to his Government.

I am, &c.
(Signed) DERBY.

Memorandum communicated to the Earl of Derby by Musurus Pasha, November 16.

POUR justifier la prétention des Principautés de conclure directement des Conventions Commerciales avec les Puissances étrangères, on invoque la faculté que le Firman d'investiture du Prince Charles reconnaît à l'administration Moldo-Valaque de conclure avec les administrations limitrophes des arrangements d'un intérêt local.

En effet, l'Article 4 de ce Firman, auquel ont accédé toutes les Puissances signataires du Traité de Paris, est ainsi conçu :

“ A considérer, comme par le passé, obligatoires pour les Principautés Unies tous les Traités et Conventions existant entre la Sublime Porte et les autres Puissances, en tant qu'ils ne porteraient pas atteinte aux droits des Principautés Unies, établis et reconnus par les actes qui les concernent ; à maintenir et respecter également le principe qu'aucun Traité ou Convention ne pourront être conclus directement par les Principautés Unies avec les Puissances étrangères. Toutefois mon Gouvernement Impérial ne manquera pas à l'avenir de consulter les Principautés Unies sur les dispositions de tout Traité ou Convention qui pourront toucher à leurs lois et règlements commerciaux.

“ Les arrangements d'un intérêt local entre deux administrations limitrophes, et n'ayant point la forme de Traité officiel ni de caractère politique, continueront à rester en dehors de ces restrictions.”

Ainsi qu'il appert de cette citation, le mode de régler les rapports commerciaux des Principautés Unies avec l'étranger se trouve définitivement déterminé, au su et avec l'adhésion de chacune des Puissances signataires du Traité de Paris ; et c'est pour éluder cette décision unanime qu'on a imaginé de donner aux Traités de Commerce à conclure avec les Principautés la dénomination et le caractère d'arrangements d'intérêt local entre Etats limitrophes. Mais il est évident qu'un acte international qui concerne le commerce extérieur des Principautés, et intéresse, par conséquent, les autres Puissances autant que les Puissances limitrophes, est d'un intérêt général, et que, par cela même, il ne saurait être rangé dans la catégorie des arrangements d'un intérêt local concernant exclusivement les Etats limitrophes.

Il ne serait pas hors de propos de remarquer ici que, comme les Puissances limitrophes, en concluant des Conventions Commerciales avec les Principautés directement et sans le concours et la participation de la Sublime Porte, auraient naturellement intérêt à obtenir des conditions spécialement avantageuses aux Etats voisins ; et comme, d'un autre côté, les autres Puissances signataires du Traité de Paris, qui, fidèles à leurs engagements internationaux, ne voudront pas conclure directement des Conventions Commerciales avec les Principautés, se verraient obligées, se prévalant du traitement de la nation la plus favorisée, que leurs Traités avec la Sublime Porte leur assurent sur toute l'étendue de l'Empire Ottoman, de se contenter du système commercial extérieur qu'il aurait plu aux Puissances limitrophes d'établir par leurs Conventions Commerciales, il s'ensuivrait que la conclusion de Conventions Commerciales entre les Principautés et les Puissances limitrophes sans le concours de la Sublime Porte serait une violation non-seulement attentatoire aux droits de la Cour Suzeraine, mais aussi préjudiciable aux intérêts et même aux droits des autres Puissances signataires du Traité de Paris.

Dans l'instruction identique donnée à leurs premiers drogmans et communiquée à la Sublime Porte, les trois Ambassades déclarent formellement que ces arrangements, c'est-à-dire, les Conventions Commerciales, ne seraient signés que par les Ministres et Administrations compétentes sans être revêtus de la sanction souveraine. On serait porté à supposer que cette déclaration, qui, d'ailleurs, n'atténue en rien le caractère illégal de tout acte commercial direct entre les Principautés et les Puissances étrangères, est un désaveu de la forme adoptée pour l'arrangement dernièrement conclu entre l'Autriche-Hongrie et les Principautés relativement au raccordement des chemins de fer, arrangement qui, quoique d'un intérêt vraiment local et moins important qu'une Convention Commerciale, est cependant revêtu de toutes les formes d'un véritable Traité : nomination de Plénipotentiaires, communication des pleins pouvoirs respectifs, réserve et échange des ratifications. Mais, si les Principautés, de même qu'elles refusent aujourd'hui leur recours préalable à la Cour Suzeraine, insistent sur le maintien des formes adoptées pour l'arrangement relatif au raccordement des chemins de fer, et refusaient d'admettre les conditions de la déclaration susmentionnée des trois Ambassades, qui assure qu'on tiendrait plus compte de cette déclaration que

des stipulations de Paris, et qu'on ne passerait pas outre, en disant : "Nous ne saurions laisser périéliter des intérêts positifs pour des questions de pure forme ?"

(Translation.)

In order to justify the claim of the Principalities to conclude Commercial Conventions directly with foreign Powers, the power of concluding with limitrophe administrations arrangements of local interest is appealed to, which power the Firman of investiture of Prince Charles allows to the Moldo-Wallachian administration.

Thus, Article 4 of this Firman, to which all the powers who signed the Treaty of Paris have acceded, runs as follows :—

"To consider as in times past, as binding upon the United Principalities, all the Treaties and Conventions existing between my Sublime Porte and the other Powers, in so far as they should not infringe the rights of the United Principalities, settled and recognized by the acts relating to them; also to maintain and respect the principle that no Treaty or Convention could be directly concluded by the United Principalities with foreign Powers. My Imperial Government will, nevertheless, not fail to consult the United Principalities upon the dispositions of every Treaty or Convention which might relate to their laws and commercial regulations.

"Arrangements of local interest between two neighbouring administrations, and not bearing the form of an official Treaty, or of a political character, shall continue to remain as no part of these restrictions."

Thus, as it appears from this quotation, the mode of regulating the commercial relations of the United Principalities with foreign countries has been definitively settled, with the knowledge and adhesion of each of the Powers who signed the Treaty of Paris; and it is to elude this unanimous decision that the idea has been conceived of giving to Treaties of Commerce concluded with the Principalities the designation and character of arrangements of local interest between limitrophe States. But it is evident that an international Act which concerns the foreign commerce of the Principalities, and which consequently interests the other Powers quite as much as the limitrophe Powers, is of general interest, and for that very reason cannot be ranked in the category of arrangements of a local interest exclusively concerning the limitrophe States.

It will not be out of place to remark here that as the limitrophe Powers, in concluding Commercial Conventions with the Principalities directly and without the co-operation and participation of the Porte, will naturally have an interest in obtaining conditions specially advantageous to the neighbouring States; and as, on the other hand, the other Powers who signed the Treaty of Paris, and who, faithful to their international engagements, decline to conclude Commercial Convention directly with the Principalities, will find themselves obliged, in availing themselves of the treatment of the most favoured nation, which is ensured to them throughout the whole extent of the Ottoman Empire by their Treaties with the Sublime Porte, to content themselves with the system of foreign commerce which the limitrophe Powers may have been pleased to establish by their Commercial Conventions, it therefore follows that the conclusion of Commercial Conventions between the Principalities and the limitrophe Powers without the co-operation of the Sublime Porte would be a violation not only infringing the rights of the Suzerain Court, but injurious also to the interests and even to the rights of the other Powers who signed the Treaty of Paris.

In the identical instruction given to their first Dragomans and communicated to the Sublime Porte, the three Embassies formally declare that these arrangements, that is to say, these Commercial Conventions, will be signed only by the Ministers and competent administrations without receiving the Royal sanction. One would be inclined to suppose that this declaration, which, moreover, does not in any degree lessen the illegal character of every direct Commercial Act between the Principalities and foreign Powers, is a disavowal of the form adopted for the arrangement recently concluded between Austria-Hungary and the Principalities relative to the junction of the railroads, an arrangement which, although in truth of local interest, and less important than a Commercial Convention, is nevertheless surrounded with all the forms of a real Treaty; nomination of Plenipotentiaries, communication of full powers, reservation and exchange of ratifications. But if the Principalities, just as now they refuse to have recourse in the first instance to the Suzerain Courts, should insist on the maintenance of the forms adopted for the arrangement relative to the junction of the railways, and should refuse to admit the conditions of the above-mentioned declaration of the three Embassies, what assurance is there that greater

respect will be paid to this declaration than to the stipulations of Paris, that it will not be disregarded while it will be said, "We cannot allow positive interests to be imperilled on account of questions of pure form?"

No. 15.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, November 20, 1874.

HER Majesty's Government have had under their consideration the communications exchanged between the Governments of Austria, Russia, and Germany, and the Porte, and of which copies were received from the Turkish Ambassador on the 7th instant, respecting the conclusion of Commercial Conventions between the Vassal Principalities and foreign Powers.

It appears to Her Majesty's Government that the question may be regarded from two aspects, political and commercial.

Too great importance should not, in their opinion, be attached to the political aspect, which loses much of its significance from the positive declaration of the three Governments that they have no intention of weakening the ties by which the Principalities are united with the Ottoman Empire. The instruction to the German Dragoman, which is identic with those given to the Dragomans of the Austrian and Russian Embassies, states:—

"Nous ne voulons, en le faisant, ni affaiblir ni resserrer les liens qui unissent les Principautés Vassales à la Cour Suzeraine. Nous entendons, au contraire, ne leur porter aucune atteinte. . . . Vous donnerez en même temps au Gouvernement Ottoman l'assurance que ces arrangements, dénués de tout caractère politique, ne seraient signés que par les Ministères et Administrations compétentes et non revêtus de la sanction Souveraine. De cette façon ils ne sauraient nullement affaiblir aucun des droits de Sa Majesté le Sultan, ni modifier la position garantie par les Traités aux Principautés Vassales vis-à-vis de la Sublime Porte."

On the other hand, the moderation of the reply of the Turkish Government shows a disposition to deal with the question in a practical manner, and, taken with this formal recognition of the Suzerainty of the Porte on the part of the three Powers, seems to indicate that a satisfactory solution of the question ought not to be difficult to attain.

Her Majesty's Government have already intimated that they concur with the Porte that the Principalities have no authority to conclude separate Commercial Conventions. They have no desire to enter into a controversial discussion of the privileges and immunities secured to the Principalities, but they cannot overlook the fact that in none of the various Firmans, diplomatic instruments, or other documents organizing the constitution of the Principalities, is any such authority conferred. On the contrary, the "Règlement Organique de la Principauté de Moldavie" on the 29th of July, 1829, one of the "Règlements Administratifs" confirmed by the Treaties between Russia and the Porte of September 1829 and January 1834, the Hatti Scheriff of 1834, and by the Treaty between the guaranteeing Powers of 1858, provided (paragraph 155), "les commerçants étrangers ne pourront trafiquer dans le pays que suivant la teneur des Traités existants entre la Porte Ottomane et les Puissances dont les commerçants seraient les sujets;" and the XXth Article of the Treaty of Commerce between Great Britain and Turkey of the 29th of April, 1861, stipulated that "the present Treaty shall receive its execution in all and every one of the Provinces of the Ottoman Empire, that is to say, in all possessions of His Imperial Majesty the Sultan situated in Europe or in Asia, in Egypt and in the other parts of Africa belonging to the Sublime Porte, in Servia and in the United Principalities of Moldavia and Wallachia."

It is impossible, therefore, for Her Majesty's Government to admit that the Principalities have the right of concluding separate Commercial Conventions.

Nevertheless, regarding the matter in its commercial aspect, Her Majesty's Government must acknowledge that the position of the Principalities in respect to their commercial relations with foreign States is anomalous. While the Principalities have the control over their own tariff, the exercise of this control is limited, by the Treaty engagements of the Porte, within a certain range of duties.

The prosperity of the trade of the United Principalities and the development of their resources under the present system prove that the operation of it has not been

oppressive, and that the advantage derived by them from the position secured to them by their political union with the Ottoman Empire has more than counterbalanced any disadvantages or inconvenience arising from the restriction on their complete commercial independence.

The announcement by the Porte of its intention to terminate or revise, at the earliest admissible period, the Commercial Treaties now in force between Turkey and other countries, has, however, materially altered the condition under which this state of things has continued; and Her Majesty's Government had not hesitated to advise the Porte, before the three Powers had thus addressed it, to make such timely concessions as might remove any substantial grievance on the part of the Principalities, so far as that could be done without impairing the political integrity of the Ottoman Empire.

There is no Power which can be more sincerely interested in the welfare and prosperity of the Principalities than Great Britain. Of the total number of vessels which left the Danube in 1873 with the produce, for the most part, of the left bank of the river, 300 steamers, with a tonnage of 193,234 tons, were British; 85, of 40,625 tons, Austrian; 42, of 30,202 tons, French; 25, of 6,836 tons, Russian; 8, of 3,863 tons, Italian; and 2, of 1,183 tons, German. Consul Ward, in his Report on the trade of Galatz for 1871, valued the exports to Great Britain at an average of 1,500,000*l.* a year, and stated that, of the average annual imports into Galatz and Ibraila, from all countries, of 3,000,000*l.*, Great Britain supplied at least 1,000,000*l.* Her Majesty's Government may, accordingly, fairly claim that Great Britain should be heard, not only as one of the Guaranteeing Powers, but as a nation deeply concerned in the trade of the Danube.

The three Governments have represented that "*les Traités conclus avec la Turquie reconnaissent aux Principautés une administration douanière séparée, mais l'absence d'engagements contractuels entre ces administrations et celles des autres Etats jette souvent une perturbation regrettable dans les relations douanières respectives. Ces inconvénients augmentent au fur et à mesure du développement progressif des voies de communication qui servent à multiplier les échanges avec les Puissances voisines, et à donner une impulsion nouvelle au transit des produits des autres pays.*"

Her Majesty's Government have no doubt that there is foundation for these statements.

The Firman of 1866 conceded to the Principalities the right of making arrangements of a local interest with neighbouring Administrations, in the following terms:—

"A considérer, comme par le passé, obligatoires pour les Principautés Unies tous les Traités et Conventions existant entre ma Sublime Porte et les autres Puissances, en tant qu'ils ne porteraient pas atteinte aux droits des Principautés Unies, établis et reconnus par les actes qui les concernent; à maintenir et respecter également le principe qu'aucun Traité ou Convention ne pourrait être conclus directement par les Principautés Unies avec les Puissances étrangères. Toutefois mon Gouvernement Impérial ne manquera pas à l'avenir de consulter les Principautés Unies sur la disposition de tout Traité ou Convention qui pourrait toucher à leurs lois et règlements commerciaux. Les arrangements d'un intérêt local entre deux Administrations limitrophes, et n'ayant point la forme de Traité officiel ni de caractère politique, continueront à rester en dehors de ces restrictions."

In virtue of this concession various agreements relating to postal matters and the like have been concluded with the Principalities. On the present occasion, however, as the identic representation has been joined in by Germany, the negotiations which the three Powers propose to enter upon with the Principalities would exceed the scope of the Firman, not only in their subject, but also in extending the claim to make agreements to a Power not having a *conteminate* frontier.

The question then occurs whether the Firman is sufficient to meet the exigencies of the situation, which are, in a great measure, if not wholly, attributable to the notice given by the Porte of the revision of its Commercial Treaties.

The Porte has already accorded to the Khedive of Egypt authority to enter into Commercial Conventions with other States, although the Ottoman Tariff is, and always has been hitherto in force in Egypt, and the difficulty of the Porte contracting for a vassal State having an independent, even though subordinate Tariff, does not arise there. That difficulty would presumably have proved insuperable when the negotiations for the revision of the Turkish Commercial Treaties had been undertaken, and, if that be the case, the representations of the three Powers will only have the effect of hastening, by a few months, a decision as to granting greater commercial liberty to

the Principalities which would, under any circumstances, have had to be adopted, in the interest of the Porte itself as well as of the other negotiating Powers.

Her Majesty's Government do not, therefore, think it unreasonable that the steps taken by Austria, Germany, and Russia should be regarded by the Porte as an initiative for the revision of the Treaties which it has itself invited.

At the same time it would appear to be in the interest of the Principalities that the revision of the Turkish Treaties, and the question of the conclusion of separate Customs agreements between other Powers and themselves should be treated as a whole. The Principalities undoubtedly possess certain advantages for their commerce under those Treaties. For example, the VIth Article of the Treaty with Great Britain provides that "any article, the produce or manufacture of a foreign country, intended for importation into the United Principalities of Moldo-Wallachia, or into the Principality of Servia, which shall pass through any other part of the Ottoman Dominions, will not be liable to the payment of Customs duty until it reaches those Principalities." The maintenance of this transit in bond cannot fail to be advantageous to the Principalities, and there must be numerous other matters upon which an understanding with the Porte at the time of the revision of the Treaties must be of equal importance in view of the commercial relations between the Principalities and the Porte as well as between the Principalities and other countries.

It cannot be desirable that there should be a conflicting system of customs on either side of the Danube, aggravated by special provisions of commercial agreements concluded within a few months of each other without any reference to their mutual interests by the Porte and the Principalities.

These considerations appear to Her Majesty's Government to point to the desirability of some understanding being come to through the medium of all the Guaranteeing Powers by which the Porte should acquiesce in foreign States negotiating separately with the United Principalities and with Servia for the conclusion of agreements of a non-political character in regard to Tariffs and Customs Regulations as a part of the revision of the Commercial Treaties of which the Porte has given notice.

I have to request your Excellency to communicate to the Turkish Government the views of Her Majesty's Government as expressed in this despatch, of which a copy will also be sent to Her Majesty's Representatives at Vienna, Berlin, St. Petersburg, Rome, and Paris, with instructions to communicate it to the Governments to which they are respectively accredited.

I am, &c.
(Signed) DERBY.

No. 16.

The Earl of Derby to Sir. H. Elliot.

Sir,

Foreign Office, December 5, 1874.

THE Turkish Ambassador called upon me this day and communicated to me the substance of a telegraphic despatch from Constantinople, dated the 3rd instant, to the following effect:—

The Turkish Government had not yet received the copy of the instructions sent to your Excellency respecting the Roumanian Commercial Treaty question, and were anxious to know what steps Her Majesty's Government had taken in communicating with other Powers, as they feared that, at any moment, they might find themselves "in presence of an accomplished fact." They accordingly asked the Turkish Ambassador to telegraph how the matter stood, and to ascertain what the feeling of the English Government and of the other Powers would be if a proposal were made for summoning a Conference having for its sole object to decide the question whether the Principalities should be allowed to conclude Commercial Treaties or not.

The Turkish Ambassador, in explanation of this communication, told me that, in the opinion of his Government, the advice that a Firman should be issued conceding to the Principalities the right which they claimed of making Commercial Treaties on their own account, was inapplicable to the present circumstances. No confidence could be felt by the Porte that the Firman would be treated with respect if it were issued. The Roumanian Government might, indeed, prefer to ignore it altogether. This was a result to which the Turkish Government did not choose to expose themselves.

The Turkish Government, his Excellency added, did not object in principle to issue a Firman, but it would be necessary to define in it more clearly than had been

done as yet the limit of the privileges which it might concede and its issue ought to be the consequence of an application of the Powers to the Porte.

I pointed out to his Excellency, in reply, that it could not be expected that Austria, Germany, and Russia, after the representations they had addressed to the Porte, should make such an application, which would be in effect asking as a favour for that which they had publicly claimed as a right, and they had already intimated as much. As for Her Majesty's Government, all that we desired was to see the question satisfactorily adjusted, and we were indifferent as to the particular form of settlement which might be preferred. The objection to a Conference was not taken by us; but I felt convinced that the proposition would not be accepted by the other Powers interested.

I am, &c.
(Signed) DERBY.

No. 17.

Aarifi Pasha to Musurus Pasha.—(Communicated to the Earl of Derby by Musurus Pasha, December 19.)

M. l'Ambassadeur,

Le 9 Décembre, 1874.

J'AI reçu, avec son annexe, la dépêche responsive que votre Excellence a bien voulu m'écrire le 19 November dernier, relativement à la prétention des Principautés de conclure des Conventions Commerciales avec les Puissances étrangères.

Les observations verbales que vous avez adressées à Lord Derby, jointes à vos autres communications, font ressortir on ne peut mieux le véritable caractère de la question. J'en félicite sincèrement votre Excellence, tout en la remerciant des efforts éclairés qu'elle ne cesse de déployer pour prévenir toute méprise sur le but et la portée de nos démarches. Ces efforts commencent à produire leur effet; les instructions du Chef du Foreign Office à Sir Henry Elliot viennent d'arriver; elles répondent entièrement à notre attente; elles font voir que le Cabinet de St. James partage, comme votre Excellence l'avait télégraphié du reste, notre manière d'envisager la prétention dont il s'agit, et que, si nous différons un peu d'opinion sur certaines questions de détail, cette divergence n'est point de nature à exclure la possibilité d'une entente complète quant à la marche à suivre, surtout lorsque l'idée de conférence aura prévalu au sein des divers Cabinets. Nous comptons en cela, comme en toute autre occurrence pareille, sur le concours amical de l'éminent homme d'Etat qui dirige les relations extérieures de la Grande Bretagne, et ce que sa Seigneurie a déjà fait est une sûre garantie de ce qu'elle voudra bien faire encore. Je prie votre Excellence d'être auprès de Lord Derby l'interprète de nos sentiments.

Veillez agréer, &c.
(Signé) A. AARIFI.

(Translation.)

M. l'Ambassadeur,

December 9, 1874.

I HAVE received with its inclosure the reply which your Excellency wrote to me on the 19th of November last, relative to the pretensions of the Principalities to conclude Commercial Conventions with foreign Powers.

The verbal observations, addressed by you to Lord Derby, conjointly with your other communications, show as clearly as possible the real character of the question.

I sincerely congratulate your Excellency, at the same time thanking you for your continued and strenuous efforts to prevent all misapprehension as to the aim and object of our steps. These efforts are beginning to produce their effect. The instructions to the head of the Foreign Office to Sir Henry Elliot have just arrived; they answer completely to our expectations; they show that the Cabinet of St. James', as your Excellency stated, indeed, by telegraph, shares our views in looking at the pretension in question, and that, if our opinions differ a little on certain questions of detail, this difference is not of a kind to exclude the possibility of a complete understanding as to the course to be pursued, especially when the idea of conference shall have prevailed in the different Cabinets. We reckon on this, as on every other similar occasion, upon the friendly co-operation of the eminent Statesman, who directs the foreign relations of Great Britain, and his Lordship's past behaviour is a sure

guarantee of what he will do in the future. I beg your Excellency to convey our sentiments to Lord Derby.

(Signed)

AARIFI.

No. 18.

The Earl of Derby to Sir H. Elliot.

Foreign Office, January 20, 1875.

Sir,

THE Turkish Ambassador read to me on the 16th instant a despatch, the substance of which is as follows :—

“ Upon the representation made by the three Powers to the Porte respecting the claim of the Principalities to conclude Commercial Treaties with foreign Powers, the Porte took refuge in her position as a Sovereign Power, and in the indisputable rights accorded to her by Treaty. In her eyes, and in the eyes of all those Powers who are sincerely desirous to preserve intact their international obligations, any concession on this question would affect gravely the spirit and letter of those acts, and, for this reason, they have judged it right to adhere to the view expressed by them from the first.

“ Nevertheless, the firmness and moderation of the attitude assumed by the Porte does not prevent that Government from occupying itself seriously with the consideration of the ultimate conclusion which may be arrived at, and which would have the effect of placing her unheard face to face with an accomplished fact.

The Turkish Ambassador was, therefore, instructed to watch attentively the position of affairs, more especially as the Porte was yet ignorant of the line of policy adopted by certain Cabinets on this question.”

His Excellency asked what view Her Majesty's Government took of the present situation of the Roumanian Treaty question. I said that it seemed to me difficult, in the present state of the business, to recommend any course of action which had the slightest chance of being adopted by all parties interested.

“ The Porte for reasons, the validity of which I did not desire to question, had rejected the idea of proceeding with a Firman ; the project of a Conference had been repudiated by the other Powers concerned, and I was not aware that any third solution had been put forward.

The Turkish Ambassador asked whether I thought that, when the time came, the three Powers would persevere in their declared intention of negotiating directly with the Principalities, I said I thought they would ; indeed, after the further announcement of their intention which they had made, I did not see that it would be easy for them to recede even if willing to do so. In that case, his Excellency said, “ we shall let matters take their course, and protest against an act which we consider as a violation of Treaties.”

I am, &c.

(Signed)

DERBY.

**CORRESPONDENCE respecting the Question of the
Negotiation of Commercial Conventions by the
Principalties.**

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1875.*

LONDON:

PRINTED BY HARRISON AND SONS.

CORRESPONDENCE

RESPECTING

CASES

OF ALLEGED

RELIGIOUS PERSECUTION

IN

TURKEY.

Presented to both Houses of Parliament by Command of Her Majesty.
1875.

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Correspondence respecting Cases of alleged Religious Persecution in Turkey.

No. 1.

Consul-General Eldridge to Earl Granville.—(Received October 7.)

My Lord,

Aleih, September 19, 1873.

I HAVE the honour to transmit herewith, the copy of a despatch which I have this day addressed to Her Majesty's Ambassador at the Sublime Porte, reporting the arrest and ill-treatment, by the Turkish Authorities at Lattakia, of three young Ansairiyeh converts.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure in No. 1.

Consul-General Eldridge to Sir H. Elliot.

Sir,

Aleih, September 19, 1873.

I HAVE the honour to report to your Excellency the following circumstances, which will tend to show that liberty of conscience is not much respected in the outlying districts of this vilayet:—

Three young men of about 30, named Yussef Jedeed, Hassan Maklouf, and Selim Khalaify, of Ansairiyeh parentage, who were educated many years ago in the schools of the Mission founded at Lattakia by the Rev. Mr. Lyde (a British subject), and who were brought up as Christians and Protestants, a public profession of which faith they have made, and have, as I am informed, always been inscribed as Christians in the Government registers. For some years past they have been employed as teachers in the schools established by the said Mission (which has now passed into the hands of American missionaries with an English coadjutor) in the Ansairiyeh mountain.

On Sunday, the 7th instant, the Kaïmakam of Lattakia, who was in the mountain village where the schools of which they had charge are situated, summoned them to appear before him and arrested them on the pretext that they were evading the conscription.

I am informed they were grievously ill-treated and made to march to Tripoli, whence they were forwarded by French steamer to Beyrout, where they arrived yesterday; and are to be sent on to Damascus to-day to be enrolled as recruits in the army, contrary to the regulations of the Empire, as I am told they have regularly paid the "aâna asharié," or military tax, which is exacted from all Christian subjects of the Porte.

I have, therefore, the honour (being assured of the *bona fides* of the case) to request your Excellency to take steps for the immediate release of these men, and for their return to their homes with a fair indemnity for the suffering and inconvenience they have endured, as a vindication of the liberty of conscience in Turkey, of which so much has of late been spoken and written.

I have instructed Mr. Vice-Consul Green to watch over the fate of these men, and, if possible, to obtain their release and indemnification for the suffering and inconvenience they have been put to.

I may add that there are many complaints of the intollerant, fanatical and overbearing conduct of the present Mutesarrif of Tripoli and his subordinate, the Kaïmakam of Lattakia towards Christians, native and foreign, so that it would be well if an impartial inquiry were instituted into their proceedings. They were both appointed by the ex-Wali, Subhi Pasha.

I have, &c.
(Signed) G. JACKSON ELDRIDGE.

No. 2.

Consul-General Eldridge to Earl Granville.—(Received November 19.)

My Lord,

Beyrout, November 1, 1873.

WITH reference to my despatch of the 19th September, I have the honour to transmit herewith the copy of a further despatch and its inclosures which I have addressed to Her Majesty's Ambassador at the Sublime Porte, on the subject of the Ansairiyeh converts of Lattakia.

I have, &c.
(Signed) G. JACKSON ELDRIDGE.

Inclosure 1 in No. 2.

Consul-General Eldridge to Sir H. Elliot.

Sir,

Aleih, October 27, 1873.

I HAVE had the honour to receive your Excellency's despatch of the 13th instant, informing me of the steps you have taken with regard to the three Ansairiyeh converts and the disregard to the principles of toleration which has of late been evinced by the authorities of Lattakia.

In accordance with the instructions of your Excellency, I have acquainted the Rev. Dr. Martin with the tenor of your despatch. For your further information I have the honour to transmit herewith a copy of a despatch and its inclosures which I have received from Mr. Vice-Consul Green on the subject of the three converts.

I quite share the opinion of Halet Pasha that it is most undesirable that the non-Christian subjects of His Majesty the Sultan should be encouraged to make a hollow profession of Christianity with a view of evading their duties towards the State. I have frequently impressed my views in this sense upon over zealous missionaries, and have always refused to interfere in similar matters unless fully convinced of the sincerity of the conversions, as I am in the present instance, the young men in question having been brought up in the mission schools from childhood, have never known any other religion than the Protestant form of Christianity, and have always been known as professors of it, therefore I consider that they are entitled to the same privileges as other Christian subjects of the Porte.

I have, &c.
(Signed) G. JACKSON ELDRIDGE.

Inclosure 2 in No. 2.

Vice-Consul Green to Consul-General Eldridge.

Sir,

Damascus, October 12, 1873.

WITH reference to your despatch of the 19th ultimo, directing me to watch over the fate of the three Ansairiyeh converts to Christianity who have been impressed into the Turkish army, and if possible to obtain their liberation, I have the honour to transmit herewith for your information copies of two Reports addressed to me by Mr. Selim Meshaka, one of the Dragomans of this office.

Yesterday I had the honour to urge the case of the conscripts upon the attention of the Vali, his Excellency said he wished to tell me frankly that the question involved in this affair was a most important one for the Turkish Empire. The Ansairiyeh although pagans have hitherto been obliged to furnish their proper share of recruits to the army, and if it admitted that those of them who embrace Christianity are to be exempted from

military service the whole tribe would quickly profess the Christian faith, and thus withdraw itself from an irksome duty. Halet Pacha said that a similar case had arisen in Tripoli of Barbary, where a heathen population called Kroom suddenly claimed to have avoided the obligation of military service by having become Christians, the Turkish Government, however, notwithstanding the alleged change of religion, insisted upon obtaining from it the usual number of conscripts.

The Governor-General also said that he was of opinion that his Government should exercise considerable firmness on this subject, as during the late visit of the United States Consul-General the latter had alluded to his Excellency to the right of such Ansairiyeh as should become Christians to be placed on the same footing as others of the same creed.

I admitted that I thought his Excellency was perhaps right in insisting upon the liability of the Ansairiyeh, under all circumstances, to military service, but I pointed out that the case of the present conscripts was such as to permit of an exception being made in their favour. There could be no doubt that these men were *bond fide* Christians; they had been long accepted as such by the authorities who had levied upon them the "haratch;" they had never placed themselves beyond the reach of those authorities, and they had been left unmolested and unclaimed until they had considerably passed the age when men first become liable to the conscription; indeed, I added, I feared that there was some truth in the assertion that the unfortunate men were being made to suffer for the ill feeling that had arisen between certain of the local and foreign functionaries at Lattakia.

The Governor-General said that he had been in active correspondence on the subject with the United States Consul-General, and he had referred to the Porte for instructions. Until these arrived he could take no action in the matter.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 3 in No. 2.

Report by Mr. Selim Meshaka, Dragoman of Her Majesty's Vice-Consulate at Damascus.

IN compliance with the instructions of Her Majesty's Vice-Consul, I called yesterday on the Acting Mushir, Kashif Pasha, who is also Acting Raïs Pasha, and brought under his notice the case of the three Ansairiyeh converts who have been impressed into the Turkish army. I urged his Excellency most strongly to liberate the men. His Excellency summoned the Miralaïs Bakir Bek and Hakmek Bek, the Kaïmakam Ahmed Bek, and the Mushir's interpreter Sadek Effendi, and imparted to them the object of my visit. The two Miralaïs said that Her Majesty's Vice-Consul should treat the matter through the Vali, and Bakir Bek said to me: "Even if Christians wanted to be soldiers, we would not accept them," and Hakmek Bek approved of this statement. I answered that I had not come to discuss with them the question whether they should accept Christians as soldiers or not, but to ask for the liberation of three Christians who had been pressed into the army against their will.

The Acting Mushir directed me to present his salams to the Vice-Consul and tell him that he must write to the Vali on this subject, who would communicate with him (the Acting Mushir); until then he could not take the matter under his consideration.

I have seen one of the Ansairiyeh in question at the Midan barracks. I went to see him, as I had received a note from him calling upon me to assist him as a fellow Christian and a Protestant. I was unable to see him, except in the presence of a certain officer named Osman Effendi, who came with the conscripts from Lattakia. The Ansairiyeh told me his health was suffering and that he earnestly prayed to be delivered from his present position.

(Signed) SELIM MESHAKA.

Damascus, September 26, 1873.

Inclosure 4 in No. 2.

Report by Mr. Selim Meshaka, Dragoman of Her Majesty's Vice-Consulate at Damascus.

I HAVE on several occasions seen two of the Ansairiyeh Christian conscripts. The third, being quartered out of town at the Merja barracks, I have not seen. They appear to have been treated better since their arrival in Damascus, and Selim Khalifi, the con-

script at the Meidan barracks, tells me he has observed a marked improvement in his position since I called on him. I understand the conscripts are called upon to join in the daily Moslem prayers, and have been threatened to be beaten on stating that they are Christians. They have also been informed that if they persist in their profession they will probably be sent to Yemen.

(Signed) SELIM MESHAKA.

Damascus, October 8, 1873.

No. 3.

Vice-Consul Green to Earl Granville.—(Received November 24.)

My Lord,

Damascus, November 11, 1873.

AS I have reason to believe publicity will be given through the English press to the case of the three Ansairiyeh converts to Christianity who have been enrolled into the Turkish army, I venture to submit herewith, for your Lordship's information, a copy of a letter that has been addressed to me on the subject by the Protestant (Presbyterian) missionaries residing in Damascus.

I have no doubt Mr. Eldridge has already placed before your Lordship the steps taken by me on behalf of those converts, and which have been so far successful as to relieve them, for the moment, from all pressure on the part of their officers with regard to their religion.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 3.

The Revs. J. Crawford, W. Wright, and J. F. Patterson to Vice-Consul Green.

Dear Sir,

Damascus, November 6, 1873.

WE, the undersigned missionaries at Damascus, beg to urge upon you to do your utmost for the release of the three Christian converts that are being now treated cruelly and illegally in Damascus to make them renounce Christianity.

As long as there was a possibility of their case being represented as a question of the introduction of Christians into the army, we did not feel called upon to make any representation to you on their behalf; but as we heard yesterday that one of them, Salim Khalify, had been beaten and was being starved to make him conform to the practices of the Moslem religion, we felt it our duty to lay the case before you.

We thank you for communicating immediately with the Commander-in-chief; and inasmuch as he ignored the presence of Christians in the army, and declared that all who were in the army must comport themselves as Moslems, thus showing that these men are not introduced into the army as Christians, we would respectfully call your attention to the sacred obligations of Turkey to respect the religious beliefs of all her subjects, and to the grave infringement of those obligations. The Imperial Firman of 21st February, 1856, known as the Hatti-Sherif, contains these words:—"Vu que tous les cultes sont et seront librement pratiqués dans mes Etats, aucun sujet de mon Empire ne sera gêné dans l'exercice de la religion qu'il professe, et ne pourra être contraint à changer de religion."

That this was meant to secure complete freedom to all converts is clear from the accompanying letter of Fuad Pasha to Lord Stratford de Redcliffe, entitled "Declaration of the Porte on the freedom of religious opinions, and the impunity of renegades." In his letter Fuad Pasha says:—"In accordance with the friendly representations of her allies, and in accordance with the spirit of the age, the Porte hastens by Imperial Firman to communicate the decision adopted regarding the impunity of renegades. In consequence, the assurances formerly given to the British and French Governments ('Hatti Humayoun de Gulhané, 1839') with reference to the question of renegades, are at present renewed and confirmed afresh, while an additional assurance is declared and made known that the terms of the decision at that time adopted will be held to comprise absolutely all converts." No language can be clearer than that of the Firman, and the letter which accompanied it. And the Prime Minister of England, Mr. Gladstone, in speaking of the Hatti-Humayoun in the House of Commons, as reported in the "Mail"

of 1st February, 1867, said :—"We are entitled to require from Turkey the execution of her literal engagements." The fanatical persecution of these three men is thus as illegal as it is cruel, and hoping you will "require from Turkey" in this matter "the execution of her literal engagements," we are, &c.

(Signed)

JOHN CRAWFORD.
WILLIAM WRIGHT, B.A.
J. F. PATTERSON.

No. 4.

Memorandum by Mr. Patterson.—(Communicated to Earl Granville by Mr. John Bright, December 3, 1873.)

AT B'hamra, district of Sevely, near Lattakia, Syria, the Governor, with a company of soldiers, who said he had orders from the Governor-General of Syria, seized three teachers in the Christian mission schools to become soldiers, viz., Eusaf Ledad, Hanan Mahkloof, and Salem Khalopy, they beat them, and tried to make them renounce their faith, but they said they might beat the flesh from their bones, and put them in the canon's mouth, and yet they would never change their faith. They were taken to Tebbaly with their hands tied behind their backs and put in the murderer's cell, and intend to send them off from there. These men are heads of families.

These three teachers are under the direction of the Rev. Mr. Beattie and Rev. H. Earson, who, with their wives and Miss Dodds, constitute the mission of the Reformed Presbyterian Church of North America, and are United States' citizens, but are earnestly desirous of obtaining the good offices of the Consul and Vice-Consul of Great Britain upon behalf of their native co-religionists. These men have for years been employed in this Christian work undisturbed under a friendly Governor, who has recently been replaced by one of a very different character.

The kindly interference of Her Majesty's Government on behalf of these Christians would be highly appreciated by many people in this country as well as many in the United States of America, and there is little doubt such would be effectual for the purpose.

The within is a condensed summary of detailed information which has been received by friends in Liverpool in interesting letters from the afflicted missionaries in Syria; the letters are now before me, and may, in my judgment, be entirely relied upon. Rev. Dr. Dodds, who founded the mission nearly twenty years since, and died there nearly two years ago, was a man of learning and discretion. His early colleague, Rev. Mr. Beattie, and his daughter, Miss Dodds, carry out his ideas.

(Signed) JOHN PATTERSON, J.P.

Liverpool, October 4, 1873.

No. 5.

Consul-General Eldridge to Earl Granville.—(Received December 3.)

My Lord,

Beyrout, November 19, 1873.

I HAVE the honour to transmit herewith the copy of a despatch and its inclosures, which I have addressed to Her Majesty's Ambassador at Constantinople, respecting the three Ansairiyeh converts alluded to in my despatch of the 1st instant.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure 1 in No. 5.

Consul-General Eldridge to Sir H. Elliot.

Sir,

Beyrout, November 17, 1873.

WITH reference to my despatch of the 27th ultimo, I have the honour to report that, on the 5th instant, Mr. Vice-Consul Green reported to me that Salim Khalifé, one of the Ansairiyeh converts, complained that he had been ill-treated, ordered to be imprisoned, and kept without food, in order to force him to observe Ramazan.

On the 6th instant Mr. Green furnished me with another report of which I have the honour to forward a copy; upon its receipt on the 8th instant, I forwarded to your Excellency the following telegram:—"Reference my despatch No. 60. Green reports that Ansairiyehs are ill-used and coerced to become Mussulmans."

On the 9th instant Mr. Green again reported on this subject, I transmit copy of his despatch, from which it would appear that his Excellency the Wali takes a more liberal view of the matter than his military colleague, and I hope he will shortly receive orders from Constantinople to the effect that the principle of liberty of conscience is to be fully recognized in Syria.

I have, &c.
(Signed) G. JACKSON ELDRIDGE.

Inclosure 2 in No. 5.

Vice-Consul Green to Consul-General Eldridge.

Sir, Damascus, November 6, 1873.

WITH reference to my despatch of yesterday's date, I have the honour to state that I last night called on the Commander-in-chief Izzet Pasha, and represented to him that I had ascertained that Selim Khalifeh, one of the Christian Ansairiyeh conscripts, was being ill-treated and punished by his officers because he had refused to become a Mohammedan. His Excellency said that I was labouring under some mistake, as there are no Christians in the Turkish army, and that its soldiers being Moslems, have to behave as such. Khalifeh's punishment was probably connected with the infringement by him of some military regulation.

As the question whether these conscripts are Christians or not has already been referred to Constantinople, I confined myself to reminding Izzet Pasha that very stringent Firmans and Treaty Stipulations exist as to the free exercise of religious convictions in Turkey, and suggested that he should institute further inquiries concerning the faith of the conscripts in question.

It is evident that unless speedy and efficacious representations are made to the Porte on behalf of these recruits, they will be shortly coerced into becoming Mussulmans.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 3 in No. 5.

Vice-Consul Green to Consul-General Eldridge.

Sir, Damascus, November 9, 1873.

ON the 6th instant, having been met by one of Izzet Pasha's Aides-de-camp, who delivered to me rather an unintelligible message about the three Ansairiyeh recruits, I thought it well to call again on Izzet Pasha under the hope that he might have modified his view as to their being Mohammedans, but his Excellency repeated to me his answer of the previous day.

As, however, Izzet Pasha added that he had nothing to do with the enrolment of soldiers, which is a duty of the civil authorities, I yesterday went to see the Governor-General and represented to him the view taken by the Commander-in-chief of the status of the three Ansairiyeh Christian conscripts, and recalled to his Excellency's mind some of the enactments securing religious liberty to the Sultan's subjects.

Halet Pasha did not at all share the opinion of Izzet Pasha, and told me that the latter having now left the entire responsibility of the enrolment of soldiers with him, he would cause the three Ansairiyehs in question to be brought before him and the Administrative Council for examination as to their religion. His Excellency further said, that he had hitherto looked upon these men as a fraction of the Ansairiyeh tribe, which has always furnished, regardless of its peculiar creed, its quota of recruits to the Turkish army.

To-day the three Ansairiyeh conscripts attended divine service at the Protestant (Presbyterian) Church, but whether or not they did so with the knowledge of their superior officers, I cannot say.

I have, &c.
(Signed) W. KIRBY GREEN.

No. 6.

*Lord Tenterden to Mr. Patterson.*Sir, *Foreign Office, December 13, 1873.*

I AM directed by Earl Granville to acknowledge the receipt of your communication dated the 4th of October last, which has been forwarded to this Office through Mr. Bright, and to inform you that the case of the three Ansairiyeh Christians alluded to therein has already been brought to the knowledge of Her Majesty's Government by Her Majesty's Consul-General in Syria, and that representations have been addressed to the Turkish authorities with the view of procuring their release.

I am, &c.
(Signed) TENTERDEN.

No. 7.

*Dr. Macaulay to Earl Granville.—(Received December 19.)*My Lord, *56, Paternoster Row, E.C., London, December 18, 1873.*

YOU have no doubt had the matter of the persecutions of the Christians at Damascus and other places before you. I have a letter to-day from Damascus, saying that, except prompt interference is made, three noble fellows, soldiers or officers in the Turkish army, may be sacrificed in defiance of the nominal toleration laws of the Empire.

There is at present an outbreak of the fanatical "unity of Islam" spirit, and representations made at Constantinople are not attended to as in the time of Lord Stratford de Redcliffe. American friends sadly speak of the fallen influence of England in Turkey. If your Lordship will only let Sir Henry Elliot know that you have heard of this Damascus affair, there will be more energy, and at all events the lives of these poor fellows will be spared. Do not let us have to say, "O, for an hour of Palmerston!"

I am, &c.
(Signed) JAMES MACAULAY, M.D.

No. 8.

*Lord Tenterden to Dr. Macaulay.*Sir, *Foreign Office, December 23, 1873.*

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 18th instant, and to inform you in reply that the case of the three Ansairiyeh Christians to which you refer has already occupied the attention of Her Majesty's Consul-General in Syria, and that representations have been made to the local authorities, and also at Constantinople, with the view of procuring their release.

I am, &c.
(Signed) TENTERDEN.

No. 9.

The Rev. W. Wright to the Rev. J. Davis.—(Communicated to Earl Granville by the Rev. J. Davis, December 24.)

(Extract.)

Damascus, November 11, 1873.

AT present we are having a great battle here to maintain the rights of converts to religious liberty. Three men who have been Protestants seventeen years, and who, with their children, were in full enjoyment of the ordinances of the Mission Church of Lattakia, have been brought into Damascus in chains, and are now in the army and being persecuted to conform to the rights of Islam. They were formerly Ansairiyeh, and have been for many years teachers and evangelists in their native villages. Perfect freedom is the law of the Empire for converts, and it will only be by stirring up public opinion at home that we shall be able to maintain it for them.

No. 10.

Earl Granville to Sir H. Elliot.

Sir, *Foreign Office, December 29, 1873.*
 I HAVE received from Consul-General Eldridge copies of his despatches to your Excellency relative to the case of the three Ansairiyeh Christians who have been forcibly enlisted in the Turkish army by the authorities in Syria, and whose claims to immunity on the ground of their religion appear to have been ignored.

I have no doubt that your Excellency has taken all proper measures with the view of procuring orders from the Porte for the release of these men, but I think it right that you should further inform Raschid Pasha that the matter has attracted considerable attention in this country, and that applications for the interference of Her Majesty's Government have reached me from various quarters.

There seems to be no doubt that the men in question have been brought up in the Christian faith from their childhood. Her Majesty's Government earnestly trust that there is no foundation for the reports that they have been ill-treated to induce them to change their religion, and that instructions will at once be sent, if, indeed, they have not already been given, for their release.

I am, &c.
 (Signed) GRANVILLE.

No. 11.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, December 30, 1873.*
 WITH reference to the communication that you made to me on the 4th instant, relative to the case of three Christian converts of the Ansairiyeh tribe, who have been forcibly enlisted in the Turkish army, I am directed by Earl Granville to inform you that the matter has, from the first, occupied the attention of the British Consul-General in Syria, and that representations have been made both to the Turkish Governor-General at Damascus and Her Majesty's Ambassador to that Porte, with the view of procuring the release of these men.

According to the latest accounts received, the Governor-General had announced his intention of having the men brought before him and the Administrative Council for examination as to their religion.

A despatch has now been addressed to Her Majesty's Ambassador at Constantinople instructing his Excellency to express to the Porte the earnest hope of Her Majesty's Government that orders will at once be given for the liberation of the men, if such directions have not already been sent.

I am, &c.
 (Signed) TENTERDEN.

No. 12.

The Rev. J. Davis to Lord Tenterden.—(Received January 2.)

My Lord, *Evangelical Alliance, 7, Adam Street, Strand,
 London, January 1, 1874.*

I BEG to thank you for your Lordship's gratifying communication on the subject of the steps taken by Her Majesty's Government for the protection of Christian converts in Damascus, which will, I am sure, be received with satisfaction by the members of our Council.

I remain, &c.
 (Signed) JAMES DAVIS.

No. 13.

Vice-Consul Green to Earl Granville.—(Received February 9.)

My Lord,

Damascus, January 12, 1874.

I HAVE the honour to state, with reference to the case of the three Christian Ansairiyeh conscripts, that I have recently received a petition from them, urging me to bring their state under your Lordship's notice.

As the petition does not differ materially from the paper drawn up by the Protestant missionaries, and forwarded by me from Beyrout on the 31st ultimo, I abstain from troubling your Lordship with a copy of it.

I am now informed by the Damascus missionaries, that as soon as the military authorities ascertained the converts attended Divine worship on Sundays at the Presbyterian Church, they put a stop to their doing so, by detaining them prisoners in their barracks.

I understand my French and Italian colleagues have also been appealed to by the converts, and that they have submitted the matter to the consideration of their Governments.

I have, &c.

(Signed) W. KIRBY GREEN.

No. 14.

Mr. Locock to Earl Granville.—(Received February 18.)

My Lord,

Constantinople, February 5, 1874.

I HAVE had the honour to receive your Lordship's despatch of the 29th December to Sir Henry Elliot, relative to the case of the three Ansairiyeh Christians who have been forcibly enlisted in the Turkish army by the authorities in Syria, and instructing him to inform the Porte that the matter has attracted considerable attention in England; and that application for the interference of Her Majesty's Government have reached your Lordship from various quarters.

From the moment that this case, which appears to have been a very gross one, and attended with much cruelty, was brought to the knowledge of Sir Henry Elliot, his Excellency made it the subject of a fitting remonstrance with the Porte; and on a more recent occasion I myself communicated to Raschid Pasha a translation of a Memorandum regarding this case, signed by a number of Protestant missionaries in Syria, a copy of which has already, I understand, reached your Lordship. I, at the same time, impressed upon his Excellency the importance of giving immediate orders for the release of the men, in order to put an end to an act of gross irregularity and injustice, which would inevitably attract the notice of all the Protestant Powers.

I have the word of the Foreign Minister, that orders have already been sent for their immediate release and restoration to their homes.

Under these circumstances I have not thought it advisable at the present moment to carry out to the letter your Lordship's instructions, but will do so, should I find that the order of the Porte is not speedily executed.

I have, &c.

(Signed) SIDNEY LOCOCK.

No. 15.

The Earl of Derby to Mr. Locock.

Sir,

Foreign Office, February 21, 1874.

I HAVE to acknowledge the receipt of your despatch of the 5th instant, relative to the case of the three Ansairiyeh Christians who have been forcibly enlisted in the Turkish army; and I beg to express to you my approval of the course which you have taken in the matter.

I am, &c.

(Signed) DERBY.

No. 16.

The Revs. W. Johnston and J. Rogers to the Earl of Derby.—(Received February 25.)

My Lord, 3, Botanic Avenue, Belfast, February 23, 1874.

AT a meeting of the Board of Missions of the General Assembly of the Presbyterian Church in Ireland, held at Belfast on the 9th instant, we were directed to forward to the Foreign Office the accompanying document, which had been transmitted to the Board by Mr. Wright, their own missionary at Damascus. Owing to the state of political matters the paper has been withheld to the present. We have now, however, the honour to place it in your Lordship's hands, and respectfully to invite your Lordship's attention to the statement it contains; to ask the interference of the Foreign Office, as far as it can be employed, on behalf of the parties so wronged; and in the interests of religious freedom infringed, as alleged, by the Turkish authorities, to invoke the influence of England.

We have, &c.

(Signed)

WM. JOHNSTON, *Moderator of the General Assembly,
Presbyterian Church in Ireland.*JOHN ROGERS, *Convener, Jewish Mission of the General
Assembly of the Presbyterian Church in Ireland.*

Inclosure in No. 16.

Statement.

IT being a matter of public notoriety in Syria that three Ansairiyeh Christians from the district of Jebleh have been for about three months detained by the Turkish authorities in Damascus, and treated as Moslem conscripts, a meeting of persons of various nationalities was convened at Beyrout on the 15th December last; to consider the case and devise measures for their release.

From documents laid before the meeting facts were elicited not only proving gross irregularity on the part of certain Turkish officials, but also involving a violation of the laws which secure religious liberty to all subjects of the Ottoman Government so grave as to call for the attention of the foreign Powers interested in the maintenance of these laws. The facts are briefly as follow:—

That some time last summer the Kaïmakam (Governor) of Lattakia addressed a letter to the American Vice-Consul there, demanding not only the shutting of a long-established school, but the removal of the teacher and his family from the village.

That in the latter part of August, the above-mentioned official, having had his authority extended over the district of Jebleh, initiated his rule there by the seizure and imprisonment of the three teachers, who had been for many years known as Christians, and had, as members of the Protestant community, paid taxes into the Turkish Treasury.

That the reason for their arrest was evidently no other than the fact of their being Christians, as is shown by the circumstances that the Kaïmakam at the same time summoned all the male Ansairiyeh Protestants in the district, and that one suspected individual who was apprehended was released on producing satisfactory evidence that he was still of the Ansairiyeh religion.

That the arrest of these men took place on Sabbath the 7th September, while they were assembled for worship; that on the 9th they were handcuffed and hurried with extreme cruelty to Jebleh, whence on the 13th they were sent in the same cruel manner to Tripoli; and that from Tripoli they were transferred to Damascus, which they reached on the 22nd September.

That on their arrival at Damascus they were imprisoned, maltreated, and reproached on account of their religion, and, finally, remaining firm in their religion, they were, by the semblance of a legal formality, drafted into the Turkish army.

That on Her Britannic Majesty's Vice-Consul at Damascus applying to the Commander-in-chief of the Turkish forces on behalf of one of the three, Selim Khalify, who had been beaten and imprisoned, and was being starved to make him conform to the rites of the Moslem faith, the said Turkish officer, although he had previously received full information of all the facts, declared that there were no Christians in the army, and that all who were enrolled in it must comport themselves as Moslems.

That, notwithstanding repeated representations, these men are still detained as Moslem conscripts, and refused the exercise of Christian worship.

These facts, thus briefly stated, which have been substantially communicated to the Consulates-General of Great Britain and the United States, and through them to their respective Governments, can be proved in detail, if necessary, by documents that were laid before the meeting. They clearly show that the Turkish officials have in this case infringed the religious liberty of the three men in question, and by disregarding all remonstrance on the subject, have exhibited a persistent determination to violate the IXth Article of the Treaty of Paris, which ratifies the Hatti-Sherif guaranteeing religious toleration to the subjects of the Sublime Porte without distinction.

No question is here raised as to the legality of enrolling Christians, as such, in the Turkish army. The complaint is that these three men have been singled out and treated as criminals, although accused of no other offence than that of being Christians; and that, after being in an irregular and oppressive manner enrolled in the army, they have not been treated as Christians, but as Moslems.

The meeting being in possession of these facts, and impressed with the conviction that they have the significance here assigned to them, seeing that the efforts that have been made during the period that has elapsed since the men were arrested have not resulted in their release, feel constrained now to lay the matter before the Christian Powers, in the hope that they may make such investigations and adopt such measures as they may deem best, not only for the release and indemnification of these sufferers, but for the impartial execution in future of the laws by which the Ottoman Government has guaranteed religious liberty to all its subjects.

The circumstances connected with the arrest and imprisonment of these three men exhibiting, as has been shown, an attitude of hostility to the principle of religious liberty, it is clear that adequate redress must go beyond the mere release of the individuals, and take cognizance of that growing spirit of intolerance in the Turkish Empire which, if not directly fostered by the officers of the Government, is certainly not discountenanced by such proceedings as have here been detailed. That unoffending men, heads of families wholly dependent on them, while quietly engaged in the humble and honest avocation of teachers, should be suddenly seized by order of the Government, chained as felons, and driven before mounted horsemen, who held the ropes by which their arms were tightly bound behind their backs, until from sheer exhaustion they sunk under the torture; that these men should thus be driven through the length of the land, in sight of an ignorant population who knew of no crime laid to their charge except that they professed the religion of Christ; that, when they reached Damascus, the focus of that fierce fanaticism which culminated in the massacres of 1860, they were imprisoned and maltreated, their religion reviled, and the exercise of its worship denied them; and that they should then be illegally drafted into the army, as only condemned criminals are forced into it; that all this, and much more of the like nature, should be done in the broad gaze of the whole Islamic population of Syria and Damascus, is not only a sad humiliation to all bearing the Christian name, but directly calculated to bring about a repetition of the awful scenes of 1860. To forestall and prevent such disastrous calamities, the undersigned beg leave most respectfully and earnestly to request the Christian Powers to institute a thorough investigation into the whole subject. Fanaticism in such a country and among a people so inflammable is easily aroused, and, if not checked in time, may burst out in a wide-spread conflagration which the Government of the Sublime Porte may not be able either to control or extinguish.

(Signed)

WM. M. THOMPSON, *American Mission, Chairman.*

JAMES ROBERTSON, *Church of Scotland Mission, Secretary.*

(And 15 others.)

No. 17.

Lord Tenterden to the Revs. W. Johnson and J. Rogers.

Gentlemen,

Foreign Office, February 28, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 23rd instant, and of its inclosure, relative to the case of three Ansairiyeh Christians who have been publicly enlisted in the Turkish army by the authorities in Syria, and I am to inform you in reply that the matter has already been brought to the notice of the Porte, and that a despatch has been received from Her Majesty's Chargé d'Affaires at Constan-

tinople, reporting that orders have been sent for their immediate release and restoration to their homes.

I am, &c.
(Signed) TENTERDEN.

No. 18.

Vice-Consul Green to Earl Granville.—(Received March 16.)

My Lord, *Damascus, March 3, 1874.*

I HAVE the honour to transmit herewith, for your Lordship's information, copies of a despatch and its inclosures I have this day forwarded to Her Majesty's Chargé d'Affaires at Constantinople, reporting to him the trials to which the three Ansairiyeh Christian conscripts are being subjected through the delay in the arrival of the order for their release.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 1 in No. 18.

Vice-Consul Green to Mr. Locock.

Sir, *Damascus, March 3, 1874.*

WITH reference to my despatch of the 17th ultimo, stating that no orders had yet been received here for the release of the three Christian Ansairiyeh conscripts, I have the honour to transmit herewith the copy of a letter addressed to me yesterday by the Protestant missionaries of this city.

The information it contains being in accordance with a report made to me by the Dragoman M. Selim Meshaka, I this morning called on the Commander-in-chief of the Syrian Army Corps and repeated my inquiry as to whether he had received orders from the Porte for the liberation of the converts. His Excellency stated that none had yet reached him, and on my urging him that the men should not be ill-treated, as I was sure the orders would shortly arrive, he assured me that I need express no anxiety in this direction. He, however, pretended to be greatly surprised when I told him that one of the men was in chains, and immediately sent to ascertain for what cause he was being so punished.

Although the Commander-in-chief's assurances are so far satisfactory, I believe a hope is still entertained that the converts may be induced to embrace the Mohammedan faith, and all delay in their release adds considerably to their trials.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 2 in No. 18.

The Revs. J. Crawford, W. Wright, and J. F. Patterson to Vice-Consul Green.

Dear Sir, *Damascus, March 2, 1874.*

WHEN we last inquired at the Consulate we ascertained from you that an order had been issued by the Turkish Government for the release of the three Protestant school-masters, who are being treated in Damascus as Moslem conscripts. We have been waiting anxiously for the arrival of these orders, but we have just heard that, instead of the men being released, they are being more harshly dealt with, and to-day the Dragoman of your Consulate saw one of the men, Daoud Suleiman, in chains for, as he was informed, the simple offence of saying, when asked his religion, that he was a Christian. The treatment of these men during the last five months is in direct violation of concessions and Treaty stipulations, and even the Turkish Government has acknowledged the illegality of that treatment. We beg you, therefore, once more to inquire into this extraordinary conduct of the Turkish military authorities in Damascus, and to insist on the immediate release of these sufferers.

We are, &c.
(Signed) JOHN CRAWFORD.
WILLIAM WRIGHT.
J. F. PATTERSON.

The Rev. W. Johnston to Lord Tenterden.—(Received March 6.)

My Lord,

Dunedin, Belfast, March 4, 1874.

I HAD the honour to receive your letter of the 28th ultimo, intimating the action of the Foreign Office and the consequent release of the Syrian Christians, for which tidings we are very thankful.

May I request your Lordship to inform the Clerk in the Foreign Office that the Moderator of the General Assembly of the Presbyterian Church in Ireland is a clergyman and not a layman, and is accustomed to be addressed in the same manner as the Very Rev. the Moderator of the General Assembly of the Church of Scotland.

I mention this that mistakes may be avoided in future.

I have, &c.

(Signed) WM. JOHNSTON, *Moderator.*

The Rev. J. Davis to Lord Tenterden.—(Received March 17.)

My Lord,

*Evangelical Alliance, 7, Adam Street, Strand;
London, March 16, 1874.*

REFERRING to the interview which I had the honour of having with your Lordship on the subject of religious persecution at Damascus, and your Lordship's very satisfactory letter dated December 30, I regret to have to forward to you a communication received this day from one of the missionaries in that city.

Our Council will feel greatly obliged if you will bring the matter before the attention of Lord Derby, whose interposition will yet, it is hoped, be powerful to obtain the release of these Christian converts, and the full exercise of religious liberty promised by the Ottoman Government.

I remain, &c.

(Signed) JAMES DAVIS.

Inclosure in No. 20.

The Rev. W. Wright to the Rev. J. Davis.

My dear Sir,

Damascus, March 3, 1874.

The Acting Ambassador at Constantinople wrote our Vice-Consul here that Rashid Pacha, Minister for Foreign Affairs, had told him that orders were already issued for the release of Protestant school-masters who are being treated as Moslem conscripts.

The Commander-in-chief gave Mr. Green, Her Britannic Majesty's Vice-Consul, evasive answers when he inquired, but said, perhaps "the orders were on the way."

On last Saturday we heard that the Commander-in-chief had called the three men to him, and told them he would release them on Monday (yesterday). We were anxiously awaiting the deliverance of the men when we were astonished by hearing that one of them was in chains, and the others were being more harshly dealt with.

An officer called Dawoud Suliman to him, and asked him what his religion was. He said he was a Christian, and forthwith the irons were put upon his feet. The Dragoman of the Consulate, Selim Meshaka, a member of our Church, saw the irons upon him. The Turks have been trying every means with these men; they actually gave one of them promotion, telling him how grieved they were his religion prevented him from occupying a good position. They have also been much exposed to the temptation of deserting. A purse also was laid in one of their ways, but he picked it up and took it to the officer. I have only time for these hurried words, but I fear the men are now in imminent danger.

Will England not save them? With many thanks for what you have already done, and hoping you will influence the Alliance in their behalf, I am, &c.

(Signed) WM. WRIGHT.

No. 21.

The Earl of Derby to Mr. Locock.

(Telegraphic.)

Foreign Office, March 20, 1874.

HAVE instructions for the release of the three Ansairiyeh converts been given by the Porte? If not, endeavour to procure them at once.

No. 22.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, March 21, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your further letter of the 16th instant, on the subject of the three Christian converts detained by the Turkish Authorities at Damascus, and I am to state to you in reply that Her Majesty's Consul in that city has called the attention of the Commander-in-chief of the Syrian Army Corps to their case, and I am to add that Lord Derby has instructed Her Majesty's Chargé d'Affaires at Constantinople by telegraph to endeavour to procure orders for their immediate release, if they have not already been given.

I am, &c.

(Signed) TENTERDEN.

No. 23.

The Rev. J. Davis to Lord Tenterden.—(Received March 25.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, March 25, 1874.*

My Lord,

I AM desired by the Council of this Alliance to thank you for your communication of the 21st instant, and also to ask you kindly to convey to Lord Derby their grateful acknowledgements for his Lordship's prompt attention to the subject of the three Christian converts imprisoned by the Turkish authorities at Damascus.

The Council sincerely hope that the action of Her Majesty's Government to secure religious liberty, both for the missionaries and their converts, will secure the end desired.

I remain, &c.

(Signed) JAMES DAVIS.

No. 24.

*Vice-Consul Green to the Earl of Derby.—(Received March 30.)*My Lord, *Damascus, March 18, 1874.*

WITH reference to my despatch to Lord Granville of the 3rd instant, concerning the continued detention of the three Christian Ansairiyeh school-masters in the Turkish army, I have the honour to transmit herewith copies of a further despatch, and its inclosure, on the same subject, which I have this day addressed to Her Majesty's Chargé d'Affaires at Constantinople.

I have, &c.

(Signed) W. KIRBY GREEN.

Inclosure 1 in No. 24.

Vice-Consul Green to Mr. Locock.

Sir,

Damascus, March 18, 1874.

ON the 3rd instant, I had the honour to inform you by my despatch of the renewed steps I had taken to ascertain whether the Commander-in-chief of the Syrian Army Corps had received the order for the dismissal of the three Christian Ansairiyeh

conscripts, and for what reason one of them had been placed in irons. The assurances then given me by his Excellency were of a nature to lead to the hope that the men would be treated with proper humanity pending the arrival of their discharges, but from the accompanying copy of a letter since addressed to me by the Protestant missionaries, you will observe that the conscripts have been subjected to further ill-treatment.

From the information conveyed to me by the missionaries, and from the result of inquiries made by me in other quarters, I feared that the military authorities were endeavouring, through cruel measures, to drive the Ansairiyeh Christians either to desert or to commit some serious act of insubordination, in order that they might expose themselves to very severe military punishment; and I therefore thought it expedient to telegraph to you on the 16th instant, that, owing to the increased harsh treatment of the conscripts, I suggested the transmission of telegraphic orders for their release. I trust that my having ventured to do so will not meet with your disapproval.

I have, &c.

(Signed) W. KIRBY GREEN.

Inclosure 2 in No. 24.

The Revs. W. Wright, J. F. Patterson, and J. Crawford to Consul Green.

Dear Sir, *Damascus, March 14, 1874.*

We regret that we are obliged to call your attention once more to the manner in which the three Protestant school-masters are being treated by the Turkish authorities at Damascus. One of them is still kept a close prisoner, though no charge has been brought against him, and he is suffering from the close confinement. The other two, though not so closely guarded, are frequently beaten by their officers without any apparent reason. An officer came up and struck one of them a severe blow in the face when going for his food, and they were both struck in the face when sitting in their rooms, the blows being always accompanied by the words "infidel dog." Even the officer in command at parade upbraids them publicly as infidels. Instead of an order having been issued for the release of the men, it seems to have been an order to use greater severity with them. The men are very much alarmed at the increasing cruelty of both officers and men towards them; and from all we can learn their condition is intolerable, and full of peril.

We pray you, therefore, to use whatever means at your disposal to release these men from this cruel and illegal detention.

We are, &c.

(Signed) WM. WRIGHT,
J. F. PATTERSON,
JOHN CRAWFORD.

No. 25.

Dr. Macaulay to the Earl of Derby.—(Received April 1.)

My Lord Derby, *56, Paternoster Row, London, March 30, 1874.*

I HAVE a letter from Mr. Wright of Damascus to-day, in which he says that the three Christian soldiers recently ordered to be released are still kept as prisoners, although their chains are taken off. "Apparently, the Turks are waiting to see what the new Government in England will do, as they catch at any shadow of a chance against the concession in the matter of religious liberty and toleration. Their conduct is a breach of Treaty and concession."

On forwarding a previous letter from Mr. Wright to Lord Stratford de Redcliffe he stated the case to Lord Granville, who at once telegraphed to Constantinople. That prompt action saved the lives of the three men. The fanatical Moslem party will find themselves in error, if they count upon a change of policy by the late change of Government. The Turkish Government gave promise to our Ambassador that the men should be released, and I know that your Lordship will keep them to their pledge. Five minutes inquiry, or examination of the reports at the Foreign Office, will give the facts and merits of the case. Only it is necessary not to lose time, which Lord Granville did not do.

I have, &c.

(Signed) JAMES MACAULAY, M.D.,
Editor of the "Teisure Hour."

No. 26.

Lord Tenterden to Dr. Macaulay.

Sir,

Foreign Office, April 1, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 30th ultimo, on the subject of the three Christian converts at Damascus, and I am to inform you, in reply, that instructions were sent on the 20th ultimo to Her Majesty's Chargé d'Affairs at Constantinople to endeavour to procure their release at once, in the event of orders to that effect not having been already given by the Porte, and I am to add that inquiry will be made as to what has been done in the matter.

I am, &c.

(Signed) TENTERDEN.

No. 27.

Mr. Locock to the Earl of Derby.—(Received April 17.)

My Lord,

Pera, April 8, 1874.

ON receipt of Mr. Kirby Green's despatch of the 18th ultimo, of which a copy was forwarded by him to your Lordship, informing me that the three Ansairiyeh conscripts are being treated with increased severity, I lost no time in calling Raschid Pasha's attention to the matter, and pointing out the necessity of sending fresh telegraphic orders. I have since furnished his Excellency, through Mr. Pisani, with a translation of the letter of the 14th ultimo from the Protestant missionaries at Damascus to Mr. Kirby Green, of which a copy was inclosed in the despatch above referred to. At the same time that I directed him to observe, on my part, to his Excellency, that the case was by no means (as he seemed to think it) one of simple improper drafting of Christians into the Ottoman army, but one of gross cruelty and insult to three men for no other reason than that they professed the Christian religion. I could not imagine the Porte meant to sanction such deeds, although the fact that they had been so long allowed to continue would lead most people to suppose that such was the case. The matter was already beginning to make a noise abroad; petitions had been addressed to more than one foreign Government, and would soon be finding their way into the European journals.

Rashid Pasha, in reply, informed Mr. Pisani that he is attending very seriously to the question and hopes to settle it very shortly.

The American Legation is also urging the matter.

I have, &c.

(Signed) SIDNEY LOCOCK.

No. 28.

The Revs. W. Johnston and J. Rogers to the Earl of Derby.—(Received April 20.)

My Lord,

[No date.]

WE regret exceedingly to be compelled again to trouble your Lordship in the matter of the Ansairiyeh conscripts, which we had the honour of bringing under your Lordship's attention in our communication of February last, and to which we received so encouraging a reply, dated the 28th of that month; but the following letter, just received from our missionary at Damascus, which speaks for itself, leaves us no alternative:—

“Dear Sir,

Damascus, March 31, 1874.

“I learn from different public sources (Whig and Record) that you have presented the case of the Ansairiyeh converts, who are now being treated in Damascus as Moslem conscripts, to the notice of Her Majesty's Government, and that you have received from Lord Tenterden the reply that ‘orders have been sent for their immediate release and restoration to their homes.’

“I regret to have to inform you that this promise has not been fulfilled, but that the men have been treated with increasing cruelty since the promise was given. Many such promises have been given, but nothing has come of them. Izzet Pasha, the Commander-in-chief, promised to the American Consul-General to release them more

than three months ago. Halet Pasha, Wali of Syria, promised to Mr. Green, Her Britannic Majesty's Vice-Consul at Damascus, that he would have the men examined, and if they were really Christian, he would have them treated as Christians. This promise, given three months ago, was not kept. The Commander-in-chief promised to Mr. Green that he would see the men should be kindly dealt with, and at the moment he was giving this promise one of the men was in irons—not in a solitary prison, but among the other soldiers, that they might have an opportunity to mock the 'Christian infidel.' Such imprisonment, the Commander-in-chief acknowledged to Mr. Green, was contrary to military law, and it took place since 'the order for their release' was said to have been issued. The men are never allowed to attend the service in the church, or assemble together for prayer. One of them is now more than a month in close confinement, part of the time in chains, and no one knows for what cause. The other two men, who are prisoners at large, are addressed by their officers, even on parade, as 'jiousrs.'

"These men are now more than six months detained contrary to the law of the land, and contrary to international Treaty. The Turks believe that, by gaining time, with fair promises, and by cruelties and blandishments in turn, they may, in the end, be able to make these men yield. It thus becomes the duty of English Statesmen to urge Turkey, as she would be considered a civilized State, to respect her own sacred obligations, and to at once discontinue the open breach of Treaty stipulations, and it is the duty of the Christian Church to see that religious liberty in Turkey, which is the law of the land, shall not be sacrificed to empty promises which were never meant to be kept. The case of these men, at this moment, calls for your instant and earnest interference.

"I am, &c.

"The Rev. Jchn Rogers,
"Assembly's College."

(Signed) "WM. WRIGHT.

We have, my Lord, only to add to the above the respectful but earnest appeal of the General Assembly of the Presbyterian Church in Ireland, that your Lordship will once more use the authority of the Foreign Office on behalf of the prisoners in question, against whose wrongs not only Christianity but civilization and even humanity itself revolt.

We have, &c.

(Signed)

WM. JOHNSTON, *Moderator of the General Assembly of the Presbyterian Church in Ireland.*

JOHN ROGERS, *Convener of the Jewish Mission of the General Assembly.*

No. 29.

Lord Tenterden to the Revs. W. Johnston and J. Rogers.

Gentlemen,

Foreign Office April 23, 1874.

I AM directed by the Earl of Derby to reply to your letter of the 20th instant, requesting that further representations may be made to the Turkish Government for the purpose of obtaining the release of the Ansairiyeh conscripts at Damascus, and I am to inform you that Her Majesty's Chargé d'Affaires at Constantinople reports that he has lately renewed his efforts with the Porte with the view to obtain the discharge of these men, and that Raschid Pasha, the Minister for Foreign Affairs, had informed him that he is attending very seriously to the question, and hopes to settle it very shortly.

He adds that the American Legation is also urging the matter on the Porte.

In the meantime, Lord Derby has called upon Her Majesty's Consul-General at Beyrout to report by telegraph how the case now stands.

I am, &c.

(Signed) TENTERDEN

No. 30.

The Earl of Derby to Mr. Locock.

Sir,

Foreign Office, April 27, 1874.

I HAVE received your despatch of the 8th instant, and I have to convey to you my approval of the language which you used to Raschid Pasha with respect to the

Ansairiyeh conscripts, and I now inclose a copy of a further letter from Messrs. Johnston and Rogers upon this subject.*

I am, &c.
(Signed) DERBY.

No 31.

The Rev. J. Davis to Lord Tenterden.—(Received April 28.)

Evangelical Alliance, 7, Adam Street, Strand;

My Lord, *London, April 27, 1874.*

I HAVE just received a letter from the Rev. Mr. Wright of Damascus, a copy of which I beg to inclose.

It is much to be regretted that, after the prompt and firm remonstrance of Her Majesty's Government, the imprisonment and sufferings of the three Ansairiyeh Christians should be prolonged notwithstanding the hopes held out to them that their persecution should cease.

I am informed that since the statement came from Her Britannic Majesty's Embassy at Constantinople that an order had been issued by the Turkish Government for the release of these Christian converts they have been more harshly treated by the Turkish Authorities, and that the promises of a speedy deliverance so cruelly violated made their continued detention the less endurable.

Your Lordship will, I hope, pardon me for again troubling you on the subject.

I remain, &c.

(Signed) JAMES DAVIS.

Inclosure in No. 31.

The Rev. W. Wright to the Rev. J. Davis.

My dear Sir, *Damascus, April 8, 1874.*

I HAVE just received your letter of the 27th March containing Lord Derby's reply of the 21st March with reference to the release of the Ansairiyeh Christians.

The prompt action of Her Majesty's Foreign Secretary is very gratifying, as it shows that he has a thorough appreciation of the grave bearings of the case and that he is not likely to be taken in by Turkish promises. I regret, however, to have to inform you that the matter, as far as the Turks are concerned, is still in the promising stage.

I inclose two letters which contain the latest information on the subject, and I may add that, from the cruel manner in which the men are being treated, I infer that the order which the Turks promised for the liberation of these men has never been issued, and further, that the Turks are not being kept up at Constantinople to their promise.

The question is still in its first stage and calls for vigorous sustained action.

I am, &c.

(Signed) WILLIAM WRIGHT.

No. 32.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, April 30, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your further letter of the 27th instant respecting the continued ill-treatment of the three Ansairiyeh Christians, and I am to inform you that renewed instructions have been sent by telegraph to Her Majesty's Chargé d'Affaires in this matter.

I am, &c.

(Signed) TENTERDEN.

Vice-Consul Green to the Earl of Derby.—(Received May 8.)

My Lord,

Damascus, April 22, 1874.

WITH reference to my despatch to your Lordship of the 18th ultimo, I have the honour to transmit herewith the copy of a further despatch I have this day addressed to Her Majesty's Chargé d'Affaires at Constantinople, reporting to him the proceedings of the Turkish authorities here with regard to the three Ansairiyeh Christian conscripts.

I have, &c.

(Signed) W. KIRBY GREEN.

Inclosure in No. 33.

Vice Consul Green to Mr. Locock.

Sir,

Damascus, April 22, 1874.

I HAVE the honour to acknowledge the receipt of your despatches of the 24th ultimo and 8th instant respectively concerning the three Ansairiyeh Christian conscripts.

I thought the recent arrival of Yawer Pasha, the new Commander-in-chief of the Syrian Army Corps, afforded a favourable opportunity for me to endeavour to ascertain the result of the inquiries which his Excellency Raschid Pasha informed you had been instituted at the instance of the United States' Minister. Yawer Pasha, whose frankness contrasts favourably with the conduct of many of the Turkish authorities with whom I have come in contact, has, however, been able to give me very little information on the subject, beyond that decisions had been come to and answers had been sent to the Porte before his arrival here.

Nevertheless, I have learnt from a confidential source that a military Court of inquiry reported about six weeks ago to Constantinople that it was most desirable for the well-being of the Turkish army that the Ansairiyeh Christians should on no account be discharged from its ranks. The Court does not appear to have taken into consideration the grounds upon which their dismissal is claimed.

I have also been able to discover that the Porte has asked for explanations on the same subject from the Governor-General, Halet Pasha, but I have no reason to believe that his Excellency has been led to alter his opinion, reported by me, through Mr. Eldridge, on the 12th of October last. Halet Pasha then informed me that he had placed the whole case of the three men before the Porte, and that he was awaiting instructions as to their fate. It seems, therefore, almost unnecessary that further references should be made by the Minister for Foreign Affairs to the authorities in Syria, who must evidently have an interest in upholding the views originally taken up by them.

I regret to have to report, furthermore, that the three Ansairiyeh Christians are still being subjected to considerable ill-treatment, and that each time I have felt obliged to question the military authorities regarding them they have had to submit to some additional act of cruelty: thus, last week, after I had paid my call on Yawer Pasha, Selim Khalife, one of the conscripts, was ordered to join in the public Moslem prayers, and on refusing was severely flogged. Daoud Suleiman, another of the men, has been kept a close prisoner, now nearly two months, ever since he sent to tell me that he had heard that orders had arrived for the discharge of his comrades and himself. Yawer Pasha, I believe, is not kept informed of these proceedings of his officers, for they persist in denying to him that Daoud Suleiman is imprisoned. The attempt to induce the men to desert is still continued, but whether it is desired by this means to get rid of them once for all, or to render them liable to very severe punishment, I cannot say.

I have, &c.

(Signed) W. KIRBY GREEN.

No. 34.

Consul-General Eldridge to the Earl of Derby.—(Received May 6.)

My Lord,

Beyrout, April 23, 1874,

AT 2 P.M. to-day I had the honour to receive the following telegram from your Lordship: "How does case of Ansairiyeh conscripts now stand? Answer by telegraph."

To which I have sent the following reply: "Case of Ansairiyeh conscripts unsatisfactory. No orders appear to have been received for their release. Mr. Green reported yesterday that one was severely flogged for refusing to join in public prayers. Another has been kept close prisoner for two months since he communicated with Mr. Green, whose report leaves by to-day's mail."

The conduct of the Ottoman Government with regard to these unfortunate men is to me quite unaccountable, as it is clearly in opposition to the promises which have been so frequently made that liberty of conscience should be respected in Turkey, there being no doubt about the *bona fides* of the present case, as it was originally reported by me last year to his Excellency Sir Henry Elliot in my despatch of the 19th of September, of which a copy was forwarded to Earl Granville in my despatch of the same date.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

No. 35.

The Rev. W. Johnston to the Earl of Derby.—(Received May 6.)

My Lord,

Duneden, Belfast, May 5, 1874.

LAST week I had the honour of receiving from Lord Tenterden a communication as to the action taken by the Government for the release of the Syrian conscripts, and his Lordship stated that a telegram had been sent to the British Consul at Constantinople, inquiring as to the action of the Turkish Government.

I beg to submit for the information and consideration of your Lordship and the Government the following letter just received from the Rev. Mr. Wright, one of the missionaries of the General Assembly of the Presbyterian Church at Damascus, addressed to the Governor of the Mission:—

"Dear Mr. Rogers,

"Damascus, April 17, 1874.

"The state of the conscripts has in nothing changed since I last wrote to you. The man who is imprisoned now over two months without being told his offence is in a bad fever for the last six days; the other men are urged to become Moslems by their officers, and sometimes advised to desert. The Turks want some cause of complaint against them, for which they might remove their heads and stop all further trouble, but they have for the last seven months most bravely maintained blameless lives in the face of the most skilfully presented temptations.

(Signed) "WM. WRIGHT."

The Directors of the Assembly's missions feel very grateful for the prompt action taken in this matter by Her Majesty's Ministers, and as illness has now been superinduced by imprisonment, they trust the release of the conscripts will soon be secured.

A deputation from the Directors, consisting of the Moderator of the General Assembly, the Governor of the Mission, and some other members of the Church, will be in London next week, and I am instructed to ask your Lordship on what day and at what hour it would be convenient for your Lordship to favour us with an interview on this subject.

I have, &c.

(Signed) WM. JOHNSTON.

No 36.

Mr. Locock to the Earl of Derby.—(Received May 11.)

My Lord,

Pera, April 30, 1874.

I HAD the honour to receive last night your Lordship's telegram the same evening, acquainting me with the report which had been received from Mr. Consul-General Eldridge, that on the 22nd of this month one of the Ansairiyeh conscripts, or whose release this Embassy and the United States' Legation have in vain for some time been applying, was severely beaten because he refused to take part in public Moslem prayers, while another had been kept in close confinement for the last two months.

I regret that it will be beyond my power to make another representation to the Porte on this, or indeed on any other matter, for the next two days. During the whole

of the present week the Minister for Foreign Affairs and the Grand Vizier have been occupied with public religious ceremonies, and official Court receptions, connected with the birthday of the Prophet, the presentation of the new Austrian Ambassador, and the arrival of the Prince of Servia, and the absence of anything like a proper organisation in the Foreign Department, especially since the removal of the late Musteshar, or Under-Secretary of State, is so complete, that for the transaction of the most ordinary routine business it is necessary to obtain a personal interview with the Minister.

I have, &c.

(Signed) SIDNEY LOCOCK.

No. 37.

Mr. Locock to the Earl of Derby.—(Received May 15.)

My Lord,

Therapia, May 5, 1874.

I THIS day availed myself of the earliest opportunity which I have been able to obtain of seeing the Grand Vizier on the subject of the continued cruelties which are being perpetrated on the Ansairiyeh conscripts, as described in your Lordship's telegram of the 29th ultimo.

I mentioned to His Highness that, as the persons in whose behalf I was about to speak were subjects of the Porte, it was necessary that my communication should be regarded as unofficial. It was not the less incumbent on me, however, to invite his attention to the subject, as it was one which had been repeatedly brought before Her Majesty's Government, and was attracting considerable attention, having already got into both English and American newspapers. It was now eight months since these three Christians had been taken away from their homes and driven like felons to Damascus, where they were drafted into the Turkish army; since this time they had been frequently subject to acts of persecution with the object of making them abjure their religion. During the last eight months, both Her Majesty's Embassy and the United States' Legation had on various occasions invoked the assistance of the Minister for Foreign Affairs to put an end to what I could hardly believe the Porte could approve; but all that had been done was to write for reports or send orders which were without result. The men were still in the army, and continually being exposed to insult and intimidation, and not only so, but one of them had been for the last two months in confinement, while another had been flogged for refusing to join in public Moslem prayer.

His Highness declared he could not believe that it was as I said, and that if it was a fact that they were undergoing punishment, it must be because they have committed some offence or crime, and not because they were Christians.

I assured His Highness that I had good reason to believe that I was stating the case accurately, as Her Majesty's Consul at Damascus had been several times in communication with the authorities, including the lately appointed Military Governor, Yawer Pasha, and it had never yet been alleged to him that they were undergoing punishment for any recognized fault.

His Highness said that at all event he would see at once himself into the case, and calling one of his Aide-de-camps, he sent him to the Ministry of War to bring to him whatever reports had been received on the subject, while to another person whom he summoned, he dictated a telegram to Yawer Pasha, instructing him to reply immediately by telegraph why it was that the men are being kept in the army if they are Christians, and for what reason they are being ill-treated.

I have, &c.

(Signed) SIDNEY LOCOCK.

No. 38.

The Rev. A. Thomson to the Earl of Derby.—(Received May 15.)

My Lord,

Bible House, Constantinople, May 7, 1874.

AS a member of the Turkey Branch of the Evangelical Alliance, it has been thought desirable that I should transmit to your Lordship the inclosed copy of a communication addressed to Sidney Locock, Esq., Secretary to Her Majesty's Embassy at the Sublime Porte, by the Secretary of the said Turkey Branch of the Evangelical Alliance. The paper reports to the Embassy the most recent intelligence that has reached us respecting

the three Ansairiyeh Christian teachers that were some months ago drafted into the Turkish army, were required to conform in all respects to the example of their Moslem comrades, and were ultimately cast into prison.

For the energetic action taken by Her Majesty's Foreign Office when this matter was first reported we all felt extremely grateful, and hoped that this wanton aggression on the rights of these Christian brethren would soon be redressed. But from the inclosed paper your Lordship will see that it is far otherwise, and that urgent measures must be adopted at once if these humble confessors are to be relieved from persecution.

As these individuals had been known for many years, some of them we are informed as long as seventeen years, as Christian converts, had paid the capitation tax as such, and were peaceably and usefully employed as teachers, there seems no way of accounting for the persevering hostility to which they have been subjected, except on the supposition that the local authorities have lent themselves to be the tools of fanaticism, or of the intrigues of rival religious sects. We are willing to believe that what took place was without the knowledge or approbation of the Turkish Government, which has in many instances honestly and impartially fulfilled its pledges to maintain religious liberty among its subjects. But the long delay that has occurred, and that we fear may yet occur, before the wrongs of these men are redressed, fills us with apprehensions of a retrograde policy in regard to religious liberty in the Turkish Empire, which we should deplore as most disastrous, and to prevent which we invoke the energetic protest of Her Majesty's Government.

Just as I write, the Rev. Mr. Herrick has shown me the reply he has just received from Mr. Secretary Locock to the communication of which the inclosed is a copy. Mr. Locock states that he had called on the Grand Vizier and made a fresh appeal in behalf of these Ansairiyeh conscripts, and that the Grand Vizier had in his presence telegraphed to the Military Governor of Damascus, demanding an instant explanation of the alleged detention of these men; further that the Grand Vizier refused to admit the correctness of the report now made to him, but that Mr. Locock had replied that Her Majesty's Vice-Consul at Damascus, where their imprisonment was not denied, was likewise urging their case.

Notwithstanding the favourable attitude of the Grand Vizier, we feel constrained, in view of the delay that has already occurred, to entreat your Lordship to lose no time in giving expression to your powerful remonstrance in behalf of these innocent sufferers; and we feel convinced that by such action your Lordship will not only manifest the sympathy of Britain for men who are suffering wrongfully, but pursue a course of truest friendship towards the Turkish Empire itself.

In the name and by the authority of the Turkey Branch
of the Evangelical Alliance,

(Signed) ALEXANDER THOMSON.

Inclosure in No. 38.

The Rev. G. Herrick to Mr. Locock.

Sir, Bible House, Constantinople, May 2, 1874.

I HAVE received, under date of the 20th ultimo, a letter from the Syrian Branch of the Evangelical Alliance, Beyrout, the Rev. Mr. Robertson, a short letter concerning the case of the Ansairiyeh Christian teachers, now imprisoned under military guard at Damascus,—a case which has already enlisted your generous sympathy and kind offices.

I give you below a copy of the greater part of the above-mentioned letter :—

"In a private note from Rev. Mr. Wright, at Damascus, on Saturday last are these words :—'The state of the poor converts has in nothing improved. Davoud is still in prison, and for the last six days has been ill of typhus fever. The officers urged the other two to become Moslems, and not being able to prevail upon them, advised them to desert.'"

The meaning of this you can easily divine. But we must see to it that the men are not got rid of in this way. Her Majesty's Foreign Office seems to have acted most energetically, and we cannot understand what is the cause of all this delay. It is now months since the British Consul at Damascus was informed from the Embassy that an order had been sent for their release. The Foreign Office is surely not aware that its urgent request is so little heeded at the Porte. I am sure I need not multiply words to show you the importance of your energetic action at Constantinople, &c.

There is the greater urgency that this case be pressed to a speedy and successful

issue from the manifest fact that it is one, and a specially glaring instance of an alarming tendency on the part of the Turkish Government to curtail religious liberty, and evade any honest fulfilment of its pledges given in past years in this regard. I know very well, however, that there is no lack of interest or of energetic action on your own part, and it is sufficient that I should communicate thus briefly the information I have received, trusting with all confidence in your doing all it is possible to do to accelerate the exceedingly tardy justice of the Turkish Government.

I remain, &c.
(Signed) GEO. F. HERRICK,
*Secretary, pro tem., of the Turkey Branch of the
Evangelical Alliance.*

No. 39.

*The Rev. W. Wright to the Rev. J. Davis.—(Communicated to the Earl of Derby by the
Rev. J. Davis, May 15.)*

Dear Mr. Davis, *Damascus, March 22, 1874.*

JUST a word to say that the state of the converts in Damascus is getting still worse. Selim Khalify was beaten by his officer Mohamed Aga last Saturday, and made him take part in the Moslem prayers. I saw him yesterday and he was still suffering, but they are all holding fast by their profession. Davoud Sulieman is still kept a close prisoner, though he has never been told for what offence. The difficulty of the Government seems to be to get rid of these men without making a precedent for future converts. We want such a precedent.

Yours most truly,
(Signed) WM. WRIGHT.

Dear Mr. Davis, *Damascus, April 17, 1874.*

The state of these poor men is in no way improved since I last wrote. The man imprisoned has never been liberated nor told his offence, and for the last six days he has been ill with fever. I saw two of the men to-day. The officers still urge them to apostatize in order to be promoted, and last night, when an officer had failed to make Khalify yield, he proposed to him that he ought to desert.

Temptations of all kinds are placed in their way, but as yet the Turks have found no cause of complaint against them except that they are Christians.

I commence itinerating to-morrow, but I shall have your letters attended to in my absence. Do all you can for these poor fellows who are holding out so bravely.

Yours most truly,
(Signed) WM. WRIGHT.

No. 40.

The Earl of Derby to Mr. Locock.

Sir, *Foreign Office, May 16, 1874.*

I HAVE communicated to Her Majesty's Consul-General at Beyrout by telegraph the substance of your telegram of the 12th instant, relative to the Ansairiyeh Christian converts at Damascus, and have instructed him to ascertain and report to me the true facts of the case.

In the meantime, I approve of your continuing to exert your good offices in the matter.

I am, &c.
(Signed) DERBY.

No. 41.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, May 16, 1874.*

WITH reference to our recent interview on the subject of the Christian converts at Damascus, I am directed by the Earl of Derby to inform you that the Grand Vizier

has stated to Her Majesty's Chargé d'Affaires at Constantinople that the three conscripts are individuals properly enlisted and now doing duty in their respective battalions, and that they have not been harshly treated or flogged.

I am to add that Her Majesty's Consul-General at Beyrout has been instructed by telegraph to ascertain and report the true facts of the case, and that Mr. Locock at Constantinople will continue to exert his good offices as heretofore.

I am, &c.
(Signed) TENTERDEN.

No. 42.

Mr. Locock to the Earl of Derby.—(Received May 19.)

My Lord,

Therapia, May 11, 1874.

WITH reference to my despatch of the 5th instant on the subject of the three Ansairiyeh conscripts, I have the honour to transmit to your Lordship a translation of the telegram which has been received by the Grand Vizier from Yawer Pasha, dated Damascus, 7th May, in reply to his Highness' inquiry, and which has been sent to me by his Highness for my information.

I shall lose no time in acquainting Consul Kirby Green of the nature of this reply, in order that he may make renewed inquiries, and furnish me with whatever fresh evidence he can collect in the case.

I shall continue to follow up the case direct and personally with the Grand Vizier until the return of Her Majesty's Ambassador, though in an unofficial manner, as I am perfectly aware that it would be most undesirable that any action should be taken in the matter by this Embassy, which could be rightly construed into a forcible interference in the internal affairs of the Empire.

I have, &c.
(Signed) SIDNEY LOCOCK.

P.S.—I have the honour to add a copy of an instruction which I have thought it as well to write to Mr. Green on the subject.

Inclosure 1 in No. 42.

Yawer Pasha to the Grand Vizier.

(Translation.)

(Telegraphic.)

*Damascus, April 25
May 7, 1874.*

THE three men referred to in your Highness' telegram of the 22nd April, were individuals in disguise, who have been enlisted into the army. They have not been harshly treated or flogged, and nothing has been done to them apart from what the military law prescribes. They are now serving in their respective battalions, and duly perform their military duty. I shall report the details by next post.

Inclosure 2 in No. 42.

Mr. Locock to Vice-Consul Green.

Sir,

Therapia, May 11, 1874.

INCLOSED is a translation of a telegram which has been received by the Grand Vizier from Yawer Pasha, denying the alleged ill-treatment of the three Ansairiyeh Christians, and apparently the fact that the men are Christians, though this is not actually stated.

I have already communicated its contents to you by telegraph. Whilst endeavouring to test the accuracy of Yawer Pasha's report, you will be careful in your communication with his Excellency not to give any cause of offence or invitation, as not only would such very possibly be visited on the very men of whose behalf you are acting, but it might give rise to a complaint on the part of the Porte of improper interference in the internal affairs of Turkey.

It is, however, in the interests of this country itself that the reports which have found their way to Europe, and even America, of unjust and harsh treatment to these men for no other reason than that they are Christians should be examined into, in order

that, if unfounded, they may be contradicted; and, if true, a stop may be put to the treatment complained of.

I am, &c.
(Signed) SIDNEY LOCOCK.

No. 43.

Vice-Consul Green to the Earl of Derby.—(Received May 20.)

My Lord,

Damascus, May 5, 1874.

I HAVE the honour to transmit herewith, for your Lordship's information, copies of a despatch and its inclosures, addressed by me this day to Her Majesty's Chargé d'Affaires at Constantinople. I place before Mr. Locock the grounds upon which the British and American missionaries at Lattakia have claimed the discharge from the Turkish army of their three Ansairiyeh Christian teachers, and I report that no orders have yet reached Damascus for the release of these men.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 1 in No. 43.

Vice-Consul Green to Mr. Locock.

Sir,

Damascus, May 5, 1874.

I HAVE the honour to transmit herewith, for your information, the copy of a letter addressed to me by the Rev. Dr. Martin, the British member of the American and British Mission to the Ansairiyeh. Dr. Martin is anxious to point out clearly on what grounds he and his colleagues claim the liberation of their three teachers, who are still detained as soldiers in the Turkish army.

I have always been careful to explain to the Authorities here that my intervention on behalf of the three Ansairiyeh Christians was and is based on the grounds stated by Dr. Martin, and from my past Reports to the Embassy, you will see that both the Vali and the Commander-in-chief have understood this perfectly.

No orders, I am assured, have yet reached this from the Porte for the release of the three men in question.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 2 in No. 43.

The Rev. J. Martin to Vice-Consul Green.

Sir,

Beyrout, May 4, 1874.

AS I have some reason to suspect that the release of our three teachers—Christian converts from the Ansairiyeh—is being sought by the American Embassy on the ground that they were servants or *protégés* of American residents, will you permit me to express to you the hope that no countenance will be given by the English Consulates or Embassy to such a presentation of the case.

The ground taken by the English officials has been, I believe all along, that the men are Christians, and that their rights as Christians and Ottoman subjects have been and are being violated.

I trust that although it be true that the American Embassy is presenting the case on the above footing; and even although there might be a prospect of obtaining the release of the men as *protégés*, or as servants of American and English residents, the case will be pressed forward none the less earnestly by the British Embassy upon the principles of religious liberty.

I would indeed greatly regret that we should receive the men back on the assumption that they were under American or English protection, and find that we had laboured in vain to have their Christian rights (their rights as Christians) recognized.

The assumption is a false one, and would, I feel sure, be rejected by the Turkish Government, except, perhaps, to serve a purpose, and in such a case as the present.

The men are Ottoman subjects, and heads of families, and they are Christians, and we seek their release from their illegal detention in the army, and from Moslem persecution.

My American colleagues at Lattakia are, I believe, all of them, of the same mind as myself in the matter.

I have, &c.
(Signed) JAMES MARTIN,
*British Member of the American and British Mission
to the Ansairiyeh.*

No. 44.

Lord Tenterden to the Rev. A. Thomson.

Sir, *Foreign Office, May 22, 1874.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 7th instant, relating to the case of the Ansairiyeh conscripts at Damascus.

As you are in correspondence with Her Majesty's Chargé d'Affaires it is probable that you are in the receipt of the latest information on the subject, but I am, nevertheless, desired to state to you that it appears from the last despatches from Constantinople that the Grand Vizier states that the three conscripts are individuals properly enlisted and now doing duty in their respective battalions, and that they have not been harshly treated or flogged.

I am to add that Her Majesty's Consul-General at Beyrout has been requested by telegram to ascertain and report the true facts of the case.

I am, &c.
(Signed) TENTERDEN.

P.S.—Her Majesty's Consul-General at Beyrout has since reported that he has no further important facts to report, but that further despatches are on their way home.

T.

No. 45.

The Earl of Derby to Mr. Locock.

Sir, *Foreign Office, May 23, 1874.*

I HAVE received and laid before the Queen your despatch of May 5, reporting a conversation which you had had with the Grand Vizier on the subject of the alleged persecution of the three Ansairiyeh conscripts at Damascus, and I have to convey to you my approval of the language which you held on that occasion, and of your conduct as reported in your despatch of the 11th instant.

I am, &c.
(Signed) DERBY.

No. 46.

Vice-Consul Green to the Earl of Derby.—(Received May 26.)

My Lord,

Damascus, May 12, 1874.

I HAVE the honour to transmit herewith for your Lordship's information the copy of a despatch I have this day addressed to Her Majesty's Chargé d'Affaires at Constantinople, bringing under his notice the manner in which the Turkish authorities have replied to certain inquiries of the Porte concerning the position and treatment of the three Ansairiyeh Christian conscripts.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 46.

Vice-Consul Green to Mr. Locock.

Sir,

Damascus, May 12, 1874.

WITH reference to my despatches of the 22nd April and 5th instant, I have the honour to report that I have ascertained that both the Governor-General and the Commander-in-chief have, within the last few days, received further telegraphic inquiries from the Porte about the case of the Ansairiyeh Christian conscripts, and whether it is true that one of them is detained in prison.

Halet Pasha has replied by indorsing all his former reports as to the inexpediency of permitting on any account the discharge of the men, and the Mouchir has adhered to this view, adding that it is untrue that one of the conscripts is imprisoned.

I regret, however, to have to reiterate that Daoud Suleiman still continues a prisoner in the quarters assigned to him, that his health has so far given way under close confinement that he is spitting blood, and that he fears to take the remedies prescribed by the Moslem doctors lest they should aggravate his state. The other two soldiers are constantly ill-treated for refusing to join in the public Mohammedan prayers, and then are all spoken of by their officers, even to my dragoman, as "Giaours" (infidel dogs).

I fear, as I have already intimated in my despatch of the 22nd April, that if the reports sent by this vilayet are to be taken as truthful, the promised liberation of the three Christians must necessarily remain unaccomplished.

I have, &c.

(Signed) W. KIRBY GREEN.

No. 47.

Mr. Locock to the Earl of Derby.—(Received May 26.)

(Extract.)

Therapia, May 18, 1874.

I SPOKE again to the Grand Vizier to-day on the subject of the three Ansairiyeh conscripts, and referring to the statement in the telegram which he had communicated to me, and of which a copy was inclosed in my despatch of the 12th instant, that the men were disguised individuals, I succeeded at last, but not without difficulty, in bringing him to admit that possibly the men might have been brought up from their childhood in the Christian religion. His Highness would not, however, recognize the possibility of their having ever paid the exemption tax. He said that he was willing to suppose that I was correctly informed as to these three individuals having been educated in a Christian school, having then served in it as teachers, and being well known to the missionaries and reputed to be Protestants. That did not make them Christians in the eyes of the military law, or release them from the obligation of serving in the army if they were born of Mussulman or Ansairiyeh parents. By Turkish law, the sons of Mussulmans were treated as Mussulmans and bound to serve in the army, even if they had been brought up as Christians from two years old, and it was on this very ground that he did not believe it possible that they had paid the tax exempting them from military service..

I observed to his Highness that if this principle were carried out it could no longer be a fact that there were no Christians in the Ottoman army. He replied that the fact, on the contrary, remained, as the law did not recognize such men as Christians at all, but as Mahomedans.

I told his Highness that I was sorry to receive such an answer from him, which sounded to me not at all in conformity with the principles of the Hatti-Houmayoun, which guaranteed religious freedom throughout the Empire.

His Highness only answered that he was still expecting details by the post, but that it would be useless to urge the matter as it was impossible for the Porte to act contrary to the regulations.

I have since been informed that the military law is as described by his Highness.

I begin to fear that there is but little chance of obtaining the release of these men from the military service, and if this is the case, it may become a question whether it is wise or beneficial to the men themselves to interfere any further in their behalf. It may be said that even if serving in the Turkish army they are entitled to freedom of joining in Christian worship, exemption from attending Moslem public prayers, and protection by the authorities from insult and ill-treatment. The two first propositions would probably be denied by the Porte, who would argue that the men are not Christians but

Mussulmans, and that Mussulmans in the army are not allowed to attend Christian worship, or to absent themselves from their own public worship. As to insult and ill-treatment, it will always be difficult, except in case of gross cruelty, to establish the fact so conclusively as to preclude contradiction.

No. 48.

Dr. Macaulay to the Earl of Derby.—(Received May 28.)

My Lord Derby,

56, *Paternoster Row*, London, May 27, 1874.

I HAVE a letter from Mr. Wright, of Damascus, dated 13th May, the substance of which is briefly as follows:—

A despatch was sent from Constantinople to the Commander-in-chief of the Syrian corps at Damascus, inquiring about the prisoners said to be persecuted. A subordinate (a fanatical man, under the influence of the Dervishes) dictated the answer, stating that the men were well treated; that none of them had been imprisoned or beaten; but that it was necessary to keep them under arrest, else many of the faithful would become infidels.

The writer of this false despatch has been heard to say, that “the English Government has interfered; but the English Government is only like a drum,—‘skin and wind.’”

Meanwhile the prisoners are cruelly treated, often severely beaten, for not joining in the Moslem prayers; and one of these, Dawoud Suliman, is in wretched condition, apparently soon to become a martyr to his conscientious belief in Christianity.

Khalify had been promoted on account of his education, but has been degraded because he will not cease to be an infidel, and often cruelly beaten.

All which is against the express laws of the Turkish Empire, and in defiance of the Treaty of Paris engagements.

The Consul at Damascus knows the state of the case; and our Minister at Constantinople must surely know it. But who will take trouble about poor Christian soldiers? Were it only to let the people know that English influence is more than “skin and wind,” this matter ought to be pressed, and the freedom of the poor fellows demanded.

I have, &c.

(Signed)

JAMES MACAULAY, M.D.,

Editor of the “Leisure Hour.”

P.S.—I may say that Mr. Wright’s reference to this matter is only incidental. My correspondence with him is about some papers he is writing for the “Leisure Hour,” about Baalbek and Hauran. No one knows so much as he does about these regions. He is successor to Mr. Porter, author of the “Handbook of Syria.”

J. M.

No. 49.

Vice-Consul Green to the Earl of Derby.—(Received June 1.)

My Lord,

Damascus, May 14, 1874.

I HAVE the honour to transmit herewith, for your Lordship’s information, an extract from a despatch sent this day by me to Her Majesty’s Chargé d’Affaires at Constantinople, on the subject of the incorrectness of the report furnished by Yawer Pasha to the Porte, on the treatment of the three Ansairiyeh Christian soldiers.

I have, &c.

(Signed)

W. KIRBY GREEN.

Inclosure in No. 49.

Vice-Consul Green to Mr. Locock.

(Extract.)

Damascus, May 14, 1874.

YESTERDAY I had the honour to receive your telegram of the day before, informing me that Yawer Pasha had sent the Grand Vizier a report denying that the three Ansairiyeh Christians had been treated harshly or flogged, and adding that they were all serving in their respective battalions.

This morning I sent a telegram in reply, stating that Yawer Pasha's report was incorrect; for not only had the men been cruelly treated and one of them beaten, but Daoud Suleiman had never joined a battalion and had never been clothed nor paid as a soldier.

No. 50.

Vice-Consul Green to the Earl of Derby.—(Received June 1.)

My Lord,

Damascus, May 17, 1874.

WITH reference to my despatch of the 14th instant, I have the honour to furnish your Lordship with copies of further correspondence with Her Majesty's Chargé d'Affaires at Constantinople on the subject of the treatment of the three Ansairiyeh Christian soldiers by the military authorities.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 1 in No. 50.

Vice-Consul Green to Mr. Locock.

Sir,

Damascus, May 17, 1874.

WITH reference to my despatch of the 14th instant, I have the honour to report that, on the 15th, one of the British missionaries here handed to me a petition from the three Ansairiyeh Christians, of which the inclosed is a translation. I communicated it because it shows that the men find their position sufficiently intolerable to ask, if nothing else can be done for them, that they may be transferred to the Christian regiment of cavalry stationed in the Lebanon.

The missionary informed me, at the same time, that Daoud Suleiman had that very day been supplied with a military uniform, and that other steps had been taken with regard to the three men, showing that a disposition had arisen on the part of the military authorities to remove all appearance of persecution against them. I told the missionary that I attributed all this to the telegrams which had lately passed between the Embassy and the Vice-Consulate, and which had probably come to the knowledge of the authorities.

As I am inclined to place great belief in the desire of Yawer Pasha to act in a straightforward manner, I called yesterday morning upon his Excellency and explained to him that our reports to Constantinople with regard to the three Christians did not exactly coincide. Yawer Pasha said he was entirely in the hands of his subordinates on such matters of military detail, but that he did not doubt that my information was the most correct. He begged me to send him my dragoman, Mr. Selim Meshaka, in order that he might conduct an aide-de-camp to the quarters where Daoud Suleiman was confined. I furnish herewith a copy of Mr. Meshaka's report of what occurred, and how Daoud Suleiman declared to the aide-de-camp that he had been imprisoned for upwards of two months and had only received his military uniform the day before.

Yawer Pasha has promised me, as soon as the Raïs Pasha returns from Beyrout, to hold an inquiry, in conjunction with that official, on everything connected with the position of the three men. I am, however, of opinion that his Excellency will not be able to carry out officially all the liberal ideas he has expressed to me on this matter.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure 2 in No. 50.

The three Ansairiyeh Christian Soldiers to Vice-Consul Green.

(Translation.)

WE, three unfortunate persons, depose here that we have now been eight months and three days in a most pitiable state, near unto death; but is not the whole of our case known to you!

We are well aware that you feel for us from the bottom of your heart and that you regret greatly our state.

For the Redeemer's sake, who redeemed you by His blood, take the expedient steps for our deliverance or transfer, if necessary, to the Christian troops of Mount Lebanon, or send us to Europe. In the meanwhile we pray for the welfare of our brethren (Ansairiyeh Christians). If you report our position through the telegraph you will be the means of spreading God's word. We venture to write these lines praying to God to watch over you always.

Your servants, held in captivity,

(Signed)

JUSEF JEDID.

SELIM KHALIFE.

DAOUD SULEIMAN.

Friday, May 15, 1874.

Inclosure 3 in No. 50.

Report by Mr. Dragoman Selim Meshaka.

IN compliance with the instructions received from Her Majesty's Vice-Consul I this day called upon his Excellency Yawer Pasha, who directed one of his aide-de-camps to accompany me to the barrack where Daoud Suleiman is to be found.

The aide-de-camp wished me to go to the barrack prison, as I had said Daoud had been under arrest for a long time past, but I explained that he was confined in another part of the building; one of the officers to whom we communicated our wish to see Daoud Suleiman understood whom we sought when I mentioned that he was the man who was a prisoner and whose chains had been removed on a former occasion through my intercession.

We found Daoud Suleiman dressed in a new summer uniform; he told us it had been supplied to him on Friday (the 15th May) and that at the same time he had been informed he was no longer under arrest. He told the aide-de-camp he had been kept confined two months and twelve days, and that the imprisonment had brought on spitting of blood. Several of the officers in the barracks admitted the correctness of Daoud's statements.

When we returned to the Mouchir, the aide-de-camp was inclined to make light of the imprisonment of Daoud Suleiman, who, he said, might have been kept under watch to prevent him deserting, but I repeated the above facts to Yawer Pasha, and the aide-de-camp was obliged to confirm them. The Mouchir regretted the man had not been allowed to desert. I told his Excellency, Daoud had never had the intention to desert, as he was quite prepared to share the fate of his two fellow Christian soldiers who have not been imprisoned.

(Signed)

SELIM MESHAKA.

Damascus, May 16, 1874.

No. 51.

Consul-General Eldridge to the Earl of Derby.—(Received June 1.)

My Lord,

Beyrout, May 20, 1874.

ON the 16th instant I had the honour to receive your Lordship's telegram of the previous day, but which, through errors in the transmission, I was only able to partially understand (I send the original as I received it), so that after trying in vain for twenty-four hours to make it out, I sent, on the 17th instant, a telegram to that effect, requesting that you would cause the telegram to be repeated, and I duly received yesterday the second, which was quite intelligible, and instructed me to furnish your Lordship with a statement of the real state of the matter concerning the three Ansairiyeh Christians detained as recruits at Damascus.

To this I replied by telegraph, to the effect that I did not think any fresh evidence of any importance, in addition to that which had already been laid before your Lordship, could be obtained, and that I felt convinced of the truth of what has been reported on the subject.

The facts of the case are simple enough, and are as follows:—

1. These men are undoubtedly Ottoman subjects.

2. They are sons of Ansairiyeh parents, a tribe, although not Moslem, liable, as non-Christian, to military service.

3. They are brought up from childhood as Christians in the schools of the missionaries at Lattakia.

4. On reaching years of discretion, they make a public declaration of their faith as Christians.

5. The authorities always considered them as Christians, and received from them the tax for exemption from military service which is paid by the Christian subjects of the Porte.

6. They were employed as teachers in the schools of a Christian mission.

7. While in the peaceable exercise of their profession, they were seized by the Turkish authorities, torn from their families, and treated with much unnecessary harshness, cruelty, and brutality, under the alleged pretence of their having evaded the conscription.

8. They were sent to Damascus as felons to be enrolled as recruits in the army, and it was at this point, when the circumstances were reported to me, that I first interfered in the case.

9. During the last eight months they have been kept at Damascus, where they have been subjected to a course of ill-treatment, in order to force them to renounce the religion they have always professed, and to embrace Islamism.

10. Up to the present time, they appear to have resisted all efforts made for their conversion, to have refused to take any part in the religious observance of the Moslems, and to have remained firm in their faith.

These, as far as I can ascertain, are the true facts of the case.

The Ottoman authorities allege that these men, being Ansairiyehs, are liable to the laws of conscription, which cannot be denied, if the events subsequent to their birth are not taken into consideration, viz., their Christian education, their public profession of that religion, and the official acknowledgment by the authorities of them as Christians, of which, I believe, evidence exists.

If the question of their parentage alone is considered, then, no doubt, the Ottoman Government is right in the view they take of the case, and we (I in particular) are wrong for having interfered in the matter, though it must appear singular that they were not called upon earlier in life to perform their military duties to the State, and that the authorities exacted from them the military tax.

But I maintain, and I respectfully venture to hope that your Lordship will share my views, that the political status of these men has been entirely altered from what it was at their birth by what happened afterwards, and that they are fully entitled to the same rights and privileges as the Christian born subjects of the Porte, which does not appear ever to have disputed the fact of their Christian education, and continued profession of that religion.

The whole question resolves itself into this :

Is the son of non-Christian parents who has been brought up and educated from childhood in the Christian faith, to which he has adhered in manhood, to be considered and treated as a Christian ; or is he to be considered as belonging to the sect of his parents against his own mature convictions ? If the latter view is taken, all the promises of liberty of conscience are not worth the paper they are written on.

I trust, however, that your Lordship will not conclude that I am in favour of wholesale and indiscriminate proselytism, which I consider as opposed to public policy as it is to public morality, as I believe that many would profess and call themselves Christians, in order to gain some worldly end, and were it known that all who declare themselves of the faith of Christ are to be exempted from service in the army, the whole tribe of Ansairiyeh, as well as members of the non-Christian tribes in Syria, would make the declaration, and, ostensibly, it is a fear of something of this kind that causes the Ottoman authorities to show so much reluctance in yielding in the present case, which I sincerely believe to be one of real conviction, and of persecution for faith's sake, and, therefore, a kind of test of the principle of liberty of conscience.

I will not trouble you with any lengthened remarks on the imprisonment and ill-treatment of these unfortunate men, which are so strenuously denied by the authorities at Constantinople, whose denial is based upon reports received from interested parties, since I look upon it as a secondary question, and quite apart from that of the great question of the principle involved, though I believe that the reports of Mr. Green on this subject may be thoroughly relied upon.

In conclusion I would urge upon your Lordship that, if the view I take of the case, that these men are not liable to military service, be correct, that their release should be

insisted on, and that they should be indemnified for their loss of time, as well as for the unnecessary suffering they have been put to.

I have, &c.
(Signed) G. JACKSON ELDRIDGE.

No. 52.

The Rev. J. Davis to the Earl of Derby.—(Received June 1.)

My Lord,
*Evangelical Alliance, 7, Adam Street, Strand,
London, May 29, 1874.*

I HAVE just received the inclosed letter from Damascus, which I am sure your Lordship will pardon my laying at once before you.

I remain, &c.
(Signed) JAMES DAVIS.

Inclosure in No. 52.

The Rev. W. Wright to the Rev. J. Davis.

Dear Sir, *Damascus, May 13, 1874.*

I HAVE just heard that a despatch was sent from Constantinople to the Commander-in-chief of the Syrian corps enquiring into the state of the prisoners, if any of them had been imprisoned or ill-treated, &c. The Commander-in-chief, who is a simple, kindly man, was going to answer the truth, but the Waly, who is an exceedingly fanatical man, dictated the answer, which was to the effect that the men were well treated, and that none of them had been imprisoned or beaten, and that if these men got off, all the Ansairiyeh would become Christians. I have this information from a Moslem high in office who had to do with the affair, but privately, and I dare not give his name. The Consul knows all about it.

The Turks seem determined not to let the men go except under compulsion, and there is not the least use referring the matter to the authorities at Damascus, who will say anything to justify their past conduct. For nine months the Turks have been breaking their own laws and the Treaty of Paris with respect to these men, and nothing less than an order for their release will be effectual.

The late Government and the present Government have both recognized the gravity of this case, and yet their remonstrances seem thrown away on the rulers of Turkey.

The Waly, whose night and day companions are Dervishes, who tramp his back and put their fingers into his mouth, and are to him prophets and miracle-workers, has no more idea of England's power than the lowest savage, and he declares "the English Government is like a drum—skin and wind."

The state of the men grows more intolerable.

A few days ago it was proclaimed that all who would not engage in the Moslem prayers must eat dirt. Khalify, like Daniel, refused, and was severely beaten. Dowould Suliman is still under guard. Though nine months since his arrest, he has never been incorporated in his regiment, or received clothes or money. His chains are now taken off, but he is reduced to a mere skeleton, and for the past ten days has been spitting blood.

Almost daily the men receive blows, and they are seldom addressed except as infidels.

Kalify was promoted on account of his scholarship, but yesterday he was degraded to the ranks in the presence of the British dragoman, because he had not ceased to be an infidel. I did not think that our converts would have borne what these men have endured.

Our people meet to pray for them, and their example is likely to do much good; but it is for us to use all legitimate means for their release, and I need not say that we have full confidence in Lord Derby that he will not allow the Turks to break laws so dear to England. Most grateful are we to you for your previous assistance, and we implore you to continue to do what you can for us.

I am, &c.
(Signed) WM. WRIGHT.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, June 1, 1874.

I HAVE to call your Excellency's attention to the case of the three Ansairiyeh conscripts, who have embraced the Christian faith, and who are said, in consequence, to have been subjected to much cruel treatment at the hands of the military authorities at Damascus.

The condition of the individuals has been repeatedly brought to the notice of the Porte by Mr. Locock, whilst acting as Her Majesty's Chargé d'Affaires, but his representations have hitherto met with no beneficial result.

Her Majesty's Government are, however, unwilling to believe that the Porte is indifferent to the reports which reach them as to the condition of these unfortunate men, and I have to instruct your Excellency to represent to them the bad effect which is being produced in this country by the news of the treatment to which they are subjected, and which will be still further aggravated if, as seems not improbable, one of them should die in consequence.

The injury which, in that event, would ensue to the good relations of the two countries, would be deeply regretted, but could not be prevented, by Her Majesty's Government.

I have, &c.
(Signed) DERBY.

No. 54.

Lord Tenterden to Dr. Macaulay.

Sir,

Foreign Office, June 5, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 27th ultimo, relating to the Christian converts at Damascus, and in reply I am to inform you that Her Majesty's Government are making strong representations to the Porte upon the case of these men.

I am, &c.
(Signed) TENTERDEN.

No. 55.

Sir H. Elliot to the Earl of Derby.—(Received June 7.)

My Lord,

Therapia, May 28, 1874.

I TOOK the earliest opportunity of speaking to the Grand Vizier of the treatment of the Ansairiyeh conscripts, which was, I told him, causing some sensation in England, where everything approaching to persecution on account of religious opinions was held in abhorrence.

I said that the last accounts received from Her Majesty's Vice-Consul confirmed what he had before reported of these people being imprisoned and treated with cruelty, and this being contrary to the promise of toleration solemnly given by the Porte, we were entitled to protest against such proceedings.

Hussein Avni Pasha said he had not yet received the explanations that he had called for, which should be communicated to me as soon as they arrived; but in the meantime he was ready to declare that, if the men had been imprisoned, it must have been for some military offence, and not for their religion.

As exemption from military service is not a privilege granted to the Christians, although, on account of many difficulties to be overcome, the Porte has hitherto abstained from calling upon them to serve, the discharge of the three men in question cannot properly be insisted upon unless it can be shown that they have already paid the tax for exemption.

This the Grand Vizier denies, but I believe it may be possible to get the proofs of their having done so.

That many Ansairiyehs would at once profess themselves Christians if they expected

thereby to evade the conscription is a most probable conjecture, and the Turks are naturally unwilling to encourage them to take such a step.

I have, &c.
(Signed) HENRY ELLIOT.

No. 56.

Vice-Consul Green to the Earl of Derby.—(Received June 15.)

My Lord, Damascus, May 30, 1874.

I HAVE the honour to transmit herewith, for your Lordship's information, the copy of a despatch I have this day addressed to Sir Henry Elliot on the case of the three Ansairiyeh Christian soldiers. I report to his Excellency a suggestion I have made to the Governor-General of Syria for bringing this question to a settlement without appearing to infringe on the professed right of the Turkish Government to exact, under all circumstances, military service from its non-Christian communities.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 56.

Vice-Consul Green to Sir H. Elliot.

Sir, Damascus, May 30, 1874.

I HAVE the honour to report to your Excellency, with reference to the case of the three Ansairiyeh Christian soldiers, that, having observed a certain hesitation on the part of Yawer Pasha to follow my advice, that he should let it be known at Constantinople that he had no doubt that the men are *bond fide* Christians, I called upon the Governor-General about ten days ago, and pressed the whole matter most seriously upon his attention. I told his Excellency that, although I found no difficulty in obtaining from him and from Yawer Pasha the admission that they fully believe in the sincerity of the profession of Christianity by the men, still their Excellencies' communications appear to leave the Porte in uncertainty on the subject. I urged that some means should be found to remove the colour of contradiction and opposition that our respective reports on this matter assume at Constantinople, suggesting, at the same time, that the transfer of the men to some regiment in which Christians are allowed to serve might meet the difficulty.

Halet Pasha said that this outlet had already occurred to him, but he wished first to consult Yawer Pasha and the Raïs Pasha.

Several days having, however, passed without my receiving any communication from his Excellency on the subject, I gladly availed myself of the presence in Damascus of my late Chief, Mr. Wood, Her Majesty's Agent and Consul-General in Tunis, between whom and Halet Pasha there is a close friendship, dating from the time when both occupied posts here, to have the whole case of the men placed most clearly before his Excellency by Mr. Wood.

He assured the Vali that I was in no way exaggerating the interest that the fate of the conscripts had created in England and elsewhere, and that my most anxious wish was to prevent the Turkish authorities acquiring for their Government and themselves a reputation for disregard of religious liberty, and he concluded by warmly supporting the suggestion for the transfer of the men to the dragoon regiment stationed in the Lebanon district, which is principally officered by Christians, and is composed of men of different creeds.

Halet Pasha replied that he had, in compliance with his promise, conferred with Yawer Pasha and the Raïs Pasha, but that they had raised objections to his proposal on the score of existing military regulations. His Excellency was, however, so convinced that the solution proposed was the sole one which could permit the Porte to prove its religious tolerance, without compromising its rights, that he had determined upon addressing the Grand Vizier in this sense, and he trusted that his representation would be approved of and acted upon. His Excellency begged that this communication should be considered by me as confidential, as he feared if the Porte became aware that the step had been taken in concert with me it would hesitate to adopt it, lest it should bear an appearance of concession.

Since taking the steps above reported I have had the honour to receive Mr. Locock's despatch of the 19th instant, and I am, of course, unaware if the Grand Vizier has thought it necessary to communicate the substance of his conversation to the authorities here. Should His Highness have done so, I fear Halet Pasha may be led to modify his intentions. I would, however, most humbly venture to express the opinion that, if there is really a Turkish military Law which prevents all persons born of Ansairiyeh or other non-Christian parents to be ever regarded as Christians, the pretensions of the Turkish Government to the exercise of religious tolerance is worthless.

If Halet Pasha should, nevertheless, persevere and be successful in having his advice adopted, I think it would be prudent that no immediate attempt should be made to have the men removed at once from the Turkish army, although their transfer to a Christian regiment would amount to an admission that the position taken up by us with regard to their faith was well founded. Hereafter the Porte, having maintained the principle for which it had contended, might be induced, as an act of grace, to discharge them from the army.

As Mr. Locock has expressed a doubt whether the efforts already made on behalf of the men are likely to be attended with success, I trust the proposal I have thus put forward will not meet with disapproval.

I have, &c.
(Signed) W. KIKBY GREEN.

No. 57.

The Rev. J. Davis to the Earl of Derby.—(Received June 15.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, June 13, 1874.*

My Lord,

I AM desired by the Council of this Alliance to present their best thanks for your Lordship's letter of the 5th instant, and for the renewed and energetic efforts made by Her Majesty's Government on behalf of the Christian converts at Damascus.

I regret to state that since my last communication another painful case of religious persecution by the Turkish authorities has been laid before our Society, one also in direct violation of pledges given by the Sultan to England alone before the Crimean war, and also, subsequently, to the Representatives of England, France, and Austria, when assembled in the British Embassy House in Constantinople.

I beg to inclose a statement of the case for your Lordship's consideration.

I am, &c.
(Signed) JAMES DAVIS.

Inclosure in No. 57.

Statement respecting the Persecution of Christians in Turkey.

Case of Mustapha and his Son, at Marash, communicated by the Rev. George F. Herrick, Constantinople.

THE attention of Christian Powers has lately been called to the flagrant violation of pledges of the Turkish Government in reference to religious liberty in the case of three Christian teachers of the Ansairiyeh tribe of North Syria; while those men still remain in durance in Damascus, notwithstanding the most earnest efforts made by Christian Governments for their liberation, there is brought to our notice another and similar case, which we are compelled to lay before you.

We feel compelled to do this with greater earnestness because in these repeated acts of persecution, occurring simultaneously with a persistent effort at the capital to hinder the circulation of the Christian Scriptures, there is manifest a spirit and a purpose on the part of the Turkish Government which challenges instant attention on the part of the Christian Powers and the Christian public of Europe and the United States.

The facts are as follows. Some time ago a Moslem, named Mustapha, became convinced of the truth as it is in Jesus, but fearing persecution, and wishing to save his family to Christ, he did not declare himself. This winter his eldest son, a bright boy, sixteen or seventeen years of age, began coming to school and church, and in the face of much opposition has stood firm as a Christian. The father himself was encouraged,

and four weeks ago began coming to church, and avowed himself a Christian to any who chose to ask him. Thus three weeks passed, and we hoped that with the storm of abuse which burst upon him from the Turkish populace, the matter would be passed over. But not so. Last week, Monday evening, the father and eldest son were taken from their home by the police, and, without a moment for preparation or last words, were bound like highway robbers, and marched off under a strong guard toward Aleppo, five days' journey. They were met the next morning several hours out upon the way, their arms bound behind their backs, the son barefooted, being driven on before their guard, foot-sore and weary, but making no complaints. Meeting a Protestant Christian, they said, "Tell the brethren in Marash not to grieve for us, but to pray." And so they have gone to—what? Prison, or banishment, or death? We do not know.

The Turkish Government may say, as it has said in similar cases, that these men were arrested for their own safety. Are, then, the chains for their safety? Has the repeated beating of the Ansairiyeh teachers been for their safety? It is insisted that those teachers join their fellow soldiers in Moslem worship. Is this for their safety? Does religious liberty mean that a man may be a Christian only on the condition that he scrupulously conceal the fact? Does religious liberty mean a premium on hypocrisy? Is it not a point to be pressed, that when a man freely, and with no improper influence from without, embraces Christianity, "he shall not be molested on account of his religion," that he shall have freedom of worship, Christian communities being free to receive such men. Mustapha's civil status has not been transferred to the Protestant community, simply because that community dared not receive him.

In sharp contrast to Mustapha's arrest and cruel expulsion from the city by night, the pastor of one of the Marash churches, now in Constantinople, tells me that a few years ago the conversion of two Armenians to the Moslem faith was celebrated in those very streets of Marash by a procession, headed by the officers of Government, the converts being triumphantly escorted with instruments of music, and mounted upon horses gaily comparisoned, attended by bands of soldiers and multitudes of the Mohammedan population. This pastor was an eye-witness of that scene.

Of the case of persecution above described, Rev. Mr. Montgomery, of Marash, writes: "Mustapha has committed no crime, neither can anything be proved against him, except that he has become a Christian. It is a clear test case of the right of a Moslem to become a Christian, and should be presented as such to the Christian Powers of Europe."

No. 58.

Sir H. Elliot to the Earl of Derby.—(Received June 19.)

My Lord,

Therapia, June 11, 1874.

WITH a view of removing the Ansairiyeh conscripts from the authority of the Commander-in-chief at Damascus, by whom, if the information which has reached us is at all to be trusted, they have been cruelly ill treated, I directed Mr. Sandison to suggest to the Grand Vizier that the best course to adopt in regard to them would perhaps be to have them sent to Constantinople, where, if they should be treated with hardship on account of their religion, it will be much easier to establish the fact.

His Highness has acceded to the proposal, and will at once give orders to have the men sent here, where, although as I have before observed, the mere fact of their being Christians does not entitle them to exemption from military service, there will be a better prospect of obtaining their discharge.

I have, &c.
(Signed) HENRY ELLIOT.

No. 59.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, June 19, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 13th instant, together with its inclosure, respecting a fresh case of religious persecution which is alleged to have occurred recently at Marash; and I am to state to you, in

reply, that a copy of your letter has been sent to Her Majesty's Ambassador at Constantinople, who has been requested to call upon Her Majesty's Consul at Aleppo for a report upon this case.

I am, &c.
(Signed) TENTERDEN.

No. 60.

The Earl of Derby to Sir Henry Elliot.

Sir,

Foreign Office, June 22, 1874.

I HAVE received from Her Majesty's Vice-Consul at Damascus a copy of his despatch of the 30th ultimo to your Excellency, on the subject of the three Ansairiyeh Christian converts, and I have to express my concurrence in the suggestion made by him to the Governor-General of Syria for bringing this question to a settlement.

I am, &c.
(Signed) DERBY.

No. 61.

*Lord Tenterden to Dr. Macaulay.**

Sir,

Foreign Office, June 24, 1874.

WITH reference to previous correspondence, I am directed by the Earl of Derby to inform you that a despatch has been received from Her Majesty's Ambassador at Constantinople, stating that the Grand Vizier has, in accordance with a request made by his Excellency, consented to give orders for the removal of the Ansairiyeh conscripts to Constantinople, where, although the mere fact of their being Christians does not entitle them to exemption from military service, Sir H. Elliot considers that there will be a better prospect of obtaining their good treatment, and possibly their discharge.

I am, &c.
(Signed) TENTERDEN.

No. 62.

The Rev. J. Davis to the Earl of Derby.—(Received June 27.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, June 26, 1874.*

My Lord,

I BEG to thank your Lordship for the letter of the 19th instant, informing me that, on the subject of a fresh case of religious persecution at Marash, Her Majesty's Ambassador at Constantinople has been requested to call upon Her Majesty's Consul at Aleppo for a report upon this case.

I have also the honour to acknowledge your Lordship's letter of the 24th instant, acquainting me that the Grand Vizier had consented to give orders for the removal of the Ansairiyeh conscripts to Constantinople, by which step it was considered there would be a better prospect of obtaining their good treatment, and possibly their discharge.

Allow me, on behalf of the Council of this Alliance, again to thank your Lordship for the valuable services rendered on behalf of these suffering Christians. I solicit, with a confidence inspired by the past efforts of Her Majesty's Government, their persevering determination to obtain full and uninterrupted liberty for the Christian subjects of the Porte, to whom that liberty has been solemnly conceded, both by the declaration of the Sultan made to Her Majesty's Ambassador at Constantinople, and by the Treaty to which England and the other Christian Powers were parties. I venture to hope that the strong representations already made to the Porte, and the deep sympathy aroused in this country by the cruel treatment which these men—accused of no crime, and justly entitled to protection—have nevertheless received, may yet lead to firmer and more efficient restraints being put upon provincial magistrates, by whom, it appears, these persecutions have been committed.

* A similar letter was addressed to the Evangelical Alliance and the Presbyterian Church in Ireland.

It is with sincere regret that I discharge the duty of laying before your Lordship additional particulars of the treatment to which the Moslem converts at Marash have been subjected, and also a recent letter received from Damascus. The weakness or unwillingness of the Turkish Government to protect her own subjects in the possession of religious liberty guaranteed to them, and the insult which is allowed to be openly offered to the Christian faith, professed largely in her own Empire as well as throughout Europe and elsewhere, are circumstances which it is hoped Her Majesty's Government will not fail to impress upon the Porte, as not only calling for grave remonstrance, but intolerable to those Christian Powers whose continued support she needs and receives.

I am, &c.

(Signed) JAMES DAVIS.

Inclosure 1 in No. 62.

Mr. Montgomery to the Rev. W. Wright.

My dear Sir,

Marash, May 18, 1874.

SINCE writing you two weeks ago, another chapter has been added to the history of the converted Moslems Mustapha and his son. Mustapha's little daughter, only 9 years old, was placed in our girls' boarding school, under the care of Mrs. Coffing and Miss Williams last autumn. She is a docile child and by some misfortune has lost one of her arms. The father felt very anxious to have her, and indeed all his children, educated in Christian schools.

Last week a peremptory order from the Governor-General at Aleppo came to the local Governor here, demanding that the girl be taken from us, and put into a Moslem family. Upon the receipt of the order, I requested time to consider the matter, but the Governor here soon cut the knot by calling the mother of the girl, and forcing her to send me a request, wishing the girl delivered up to herself, and detaining her until she had done it.

The girl and the other children of Mustapha, two little boys, were then taken from the mother and committed to the hands of one of the most bigoted Moslem families in Marash, and the next morning the mother was carried off to Aleppo, why we don't know, only that she refused to be divorced from her husband because he had become a Christian.

We hear that Mustapha and his son are detained in a village three hours out from Aleppo, probably because they can do what they like with them there and no foreign Consuls will interfere.

(Signed) G. F. MONTGOMERY.

Inclosure 2 in No. 62.

The Rev. W. Wright to the Rev. J. Davis.

My dear Sir,

Damascus, June 10, 1874,

I AM just home from Palmyra after having been absent fourteen days. I find no alteration in the state of the conscripts. I saw one of the men and he fears they are all going to be sent to Yemen. I think there is ground for this fear. I find nothing among the letters which have arrived during my absence to encourage me in believing that they are soon to be released. I trust Lord Derby will not forget that these men have rights, and that England is morally bound to see them enforced.

With our best thanks for your kind assistance, I am, &c.

(Signed) WM. WRIGHT.

No. 63.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, June 30, 1874.

WITH reference to my despatch of June 22 and to previous correspondence, I transmit to you herewith a copy of a further letter, which I have received from

the Evangelical Alliance, relating to recent cases of alleged religious persecution in Turkey.*

I am, &c.
(Signed) DERBY.

No. 64.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, June 30, 1874.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 26th instant, relating to recent cases of alleged religious persecution in Turkey, and I am to inform you, in reply, that a copy of your above-mentioned letter will be communicated to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) TENTERDEN.

No. 65.

The Rev. W. Johnston to the Earl of Derby.—(Received July 3.)

My Lord, *Malvern, July 1, 1874.*
I BEG to acknowledge your communication of the 24th ultimo, relating to the Syrian conscripts, and to express the warm gratitude of the General Assembly of the Presbyterian Church in Ireland for the active measures taken by the Government for their release.

In the hope that these measures may be crowned with early and complete success, I remain, &c.

(Signed) WM. JOHNSTON.

No. 66.

The Rev. I. Bliss, D.D., to the Earl of Derby.—(Received July 4.)

My Lord, *Turkish Missions Aid Society, 7, Adam Street, Strand,
London, July 3, 1874.*
I SHOULD not have ventured to call on your Lordship to-day, but for the suggestion of gentlemen connected with the English and American Embassies at Constantinople, and also of Lord Stratford de Redcliffe, whom I had the pleasure of seeing yesterday. The present is a crisis in our great Bible work in the Turkish Empire. Our hope has been that the British Government would hold the Turkish Cabinet to its pledges in regard to religious liberty in the Ottoman Empire. I trust your Lordship will pardon the length of the papers which accompany this note. I shall be most happy to give your Lordship any further information that may be desired on the matters referred to in the accompany documents.

I am, &c.
(Signed) ISAAC G. BLISS.

No. 67.

Sir H. Elliot to the Earl of Derby.—(Received July 5.)

(Extract.) *Therapia, June 22, 1874.*
I HAVE at different intervals received instructions to endeavour to obtain the fulfilment of the promise of the late Fuad Pasha for a grant of land to the Syrian schools, and very shortly before I left Constantinople in January last I urged the matter again upon the consideration of the Porte.

Upon my return I found that a communication had been made to Mr. Locock

through Mr. Pisani to the effect that the Porte had resolved to refuse to make the grant.

I therefore addressed the inclosed note to Aarifi Pasha, which, after reading to him, I put into his hands this morning. His Excellency appeared somewhat disconcerted, but answered nothing, except that he was very superficially acquainted with the question.

Inclosure in No. 67.

Sir H. Elliot to Aarifi Pasha.

Sir, *Therapia, June 21, 1874.*

UPON my return to Constantinople I was informed by Her Majesty's Chargé d'Affaires that the grant of land to the Syrian schools, respecting which communications have for some time been exchanged between Her Majesty's Embassy and the Sublime Porte, was definitively refused.

Your Excellency will believe that I do not for a moment dispute the right of the Sublime Porte to decide with perfect freedom on all matters of internal administration; but in this case it seems to have been forgotten that the question was, not whether it was desirable to endow these schools with a grant of land, but whether a promise, distinctly given and more than once repeated to Her Majesty's Embassy, should be carried out.

Knowing your Excellency to be as anxious as myself that the relations between Her Majesty's Embassy and the Sublime Porte should continue on that footing of cordiality which is only possible when mutual confidence prevails, I am satisfied that, now that your Excellency has been made aware of the engagement taken by your illustrious predecessors, you will not permit it to be repudiated.

I avail, &c.
(Signed) HENRY ELLIOT.

No. 68.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, July 7, 1874.*

I HAVE received and laid before the Queen your Excellency's despatch of the 22nd ultimo, together with its inclosure, respecting the promise made by the late Fuad Pasha of a grant of land to the Syrian schools, and I have to convey to you my approval of the note addressed by your Excellency to the Turkish Minister for Foreign Affairs on the subject.

I am, &c.
(Signed) DERBY.

No. 69.

Sir H. Elliot to the Earl of Derby.—(Received July 10.)

(Extract.)

Therapia, June 30, 1874.

I HAVE received your Lordship's despatch instructing me to call for a report from Mr. Consul Skene upon the case of the man Mustafa recently converted to Christianity at Marash.

The circumstances as they have been represented to your Lordship by the Evangelical Alliance were made known to me, as well as to his own Minister, by the Rev. G. Herrick, the American missionary whose letter forms one of the inclosures to your Lordship's despatch.

My colleague is, I believe, bebarred by his instructions from in any way interfering in such cases, but I at once represented unofficially in the proper quarters that if the facts were at all as represented it would be a monstrous violation of the religious liberty formally promised to all the Sultan's subjects.

I also telegraphed to Mr. Consul Skene for any information he could give me upon the case, and I have the honour to inclose copy of his report.

I was subsequently informed that the man, accompanied by the greater part of his family, had arrived here, and that they, or at all events he, remained in prison.

In answer to the protests which I again repeated against the treatment of a man as a criminal simply because he professed the Christian faith I received assurances that if it had been done it was entirely without the sanction or knowledge of the superior authorities, and that the case should be investigated and remedied.

Aarifi Pasha said that Mustafa had been removed from Marash for his own security, and that as his appearance there would almost certainly be the signal for disturbances among that fanatical population, it was not desirable that he should be allowed to go back there at present.

As I believe these apprehensions to be well founded I did not urge his being allowed to go back there ; but I strongly insisted that one of the daughters, who was separated from the rest of the family and kept at Marash, should be sent to join them. Mustafa, with his wife and children, with the exception of that daughter, have now been sent to Smyrna with orders to remain there.

This order is, in itself, in my opinion, unjustifiable, and I have not failed to say so at the Porte, where I have represented that if it is not expedient that the convert should live at Marash, there is no pretext for denying him complete liberty in fixing his residence in any other part of the Empire.

I was waiting to see the effect of these representations before reporting the case to your Lordship.

I have begged the Minister for Foreign Affairs to examine carefully the correspondence of Her Majesty's Embassy on this subject, which he will find in his Department, before such a false step is taken, and I hope it may still be arrested, but the spirit which would dictate the backward course undoubtedly exists.

Inclosure in No. 69.

Consul Skene to Mr. Locock.

Sir, *Aleppo, May 20, 1874.*

I HAVE the honour to report to you, that a great sensation has been created at Aleppo, by the arrival of a certain Mustapha Oglou Ali, who was reported to have been brought in chains from Marash, for no other cause than his having abjured the Mussulman faith, and become a Christian. I received a telegram from the Armenian Protestant pastor at Marash, requesting me to do what I could for him ; and I communicated the purport of this telegram to the Governor-General, who assured me that the current reports on the subject were exaggerated, no chains or ill-treatment of any kind having been used, and the instructions of the Porte having been received to send the man to Constantinople ; adding, that he had kept him at the village of Heilan, on the road from Marash, in order to obviate any possible disturbance amongst the Mussulman population of this city if he should enter it.

I found, on inquiry, that three Armenian Protestants of Aleppo had gone to Heilan to see the prisoner, and I sent for them. Two of them came to me at once, and stated that the man was kept chained ; but the third, who came afterwards, said that he was not in chains. I sent again for the two others, who admitted that they had not seen any chains ; but alleged that the policemen in charge of the man had told them of chains being put on him at night.

The case will, of course, be fully examined at Constantinople on his arrival there ; and I have thought it right to lay before you all the information I have been able to obtain here on the subject, as I am aware of its having been made use of for the purpose of injuring the Governor-General in the estimation of the Porte ; and a reference might possibly be made to Her Majesty's Embassy, with the view of procuring a corroboration or a refutation of statements forwarded by agents of other countries.

I have, &c.

(Signed) T. H. SKENE.

The Rev. J. Davis to the Earl of Derby.—(Received July 11.)

Evangelical Alliance, 7, Adam Street, Strand,

My Lord,

London, July 11, 1874.

I AM directed by the Council of this Alliance to acknowledge their best thanks for your Lordship's communication of the 30th June, and to forward you the accompanying further correspondence on the subject of the persecution in Turkey still continued.

I am also instructed to invite your Lordship's attention to Mr. Wright's view of the interpretation to be put on Article IXth of the Treaty of Peace, signed in Paris 1856. This view substantially agrees with that expressed by Lord Stratford de Redcliffe and others.

I have the satisfaction of informing your Lordship, that by the kind introduction of Lord Lyons in Paris, I had the honour of an interview last Friday at Versailles with his Excellency the Duc Decazes. The interview was most gratifying; the Duc having heard my statement of the whole case, replied that he had listened to the statement with interest, and that the cause pleaded by the Evangelical Alliance received his warmest sympathy. Had the interview taken place the day previously, he would have taken the occasion of a despatch forwarded to Constantinople to insert a letter on the subject to the Representative of France, but would do so on the very next occasion;—there was, unfortunately, a clause in the Treaty of Peace, referring to the Hatti-Humaïoun, which hindered the Contracting Powers from interfering in the carrying out of its provisions; but seeing that the clause was an expression of good faith on the part of European Powers in the Turkish Government carrying out their own Charter of religious liberty to the Turkish subjects, it was not to be allowed that the promise should now be violated; the Contracting Powers must insist on Turkey fulfilling her engagements in this matter, Turkey must be reminded of the treasure which had been spent with the best blood of the sons of England and France for her protection; that she had participated in the benefits of Treaties of Commerce, and had been aided by European loans. Friendly nations would require that faith should be kept with them in the promises made by the Sultan, and to which they were parties. The Duc added, "Let your Government make the necessary demands on the subject, and we will support them. We will go side by side with you, and not in any way be behind hand. There is in this matter a common interest, and of which I feel the great importance. You may fully rely on me."

I have, &c.

(Signed) JAMES DAVIS.

Inclosure 1 in No. 70.

The Rev. G. F. Herrick to the Rev. J. Davis.

(Extract.)

Constantinople, June 22, 1874.

MUSTAPHA, with his wife and eldest son, were sent here and put in prison, arriving the 6th instant, on which day I saw him. The Embassies were at once informed, and informed also that Mustapha's three younger children had been taken by the local Government and put in a bigoted family in Marash. The Government deceived the Embassies with the promise of the liberation of this family, and then on the 16th instant sent them off into exile, and from information received, we expect, by to-morrow's mail, to hear of them in Smyrna. The American Minister has been distinctly and emphatically told that "conversion from Islamism is an impossibility;" that "the Hatti-Humayoun was never intended to apply to Mahomedans;" and the Grand Vizier now declares that the Government will put a stop to the printing and sale of the Bible in Turkish in the Empire. What will the British Government and people do about it?

A sub-Committee of the Evangelical Alliance has been appointed to act with the Secretary in this case, and will probably prepare a paper to send to your care in a few days.

P.S. Tuesday 23rd.—I have received word from Smyrna that Mustapha was committed to the Protestants in Smyrna after the Government had tried in vain to make him deny his religion, so that the freedom amounts, after all, to his being separated from his home and three of his children, and banished to Smyrna. You will hear from us more at length soon.

Inclosure 2 in No. 70.

The Rev. W. Wright to the Rev. J. Davis.

My dear Sir,

Damascus, June 13, 1874.

I HAVE received your letter of the 28th May, inclosing copy of communication from the Foreign Office, dated 16th May, 1874. I have replied by anticipation to the erroneous assertions of the Grand Vizier, which form the subject of Lord Derby's communication, and so I need not now do more than say that we are prepared to prove everything we have said on the subject of the illegal manner in which the men were enrolled, and the cruel persecution to which they have been subjected. At the same time I would remind you that the characteristic attempts of the Turks to deny undeniable facts is only a decoy to draw us off from the all-important question at issue.

I have read the statement about the difficulty arising from the clause in the Treaty regarding "interference" with surprise, because it implies a misapprehension of the case.

The Russian war was brought about by the meddling of France and Russia in the affairs of the Catholics and Greeks. For the more effectually securing the peace of the Empire and of Europe, it was thought desirable to do away with these protectorates, which were always a source of peril. The object was secured when Turkey bound herself by the Hatti-Sheriff of 21st February, 1856, to grant perfect religious toleration to all her subjects. The Firman was communicated to the Contracting Powers, and became the subject of the IXth Article of the Treaty of Paris. This solemn pledge having been given by Turkey, the Contracting Parties expressed their satisfaction ("les Puissances Contractantes constatent la haute valeur de cette communication") with the Firman, and they declared that it is not understood as giving them the right to mix themselves up in the relations of the Sultan with his people. ("Il est bien entendu qu'elle ne saurait donner le droit aux dites Puissances de s'immiscer dans les rapports de Sa Majesté le Sultan avec ses sujets.") Of course, it was not understood as giving a right to foreigners to mix themselves up in the internal affairs of the Empire, but, on the contrary, to render such a right no longer necessary, for the very object of the Hatti-Sheriff, in a political point of view, was to remove all grounds for foreigners mixing themselves up in the internal affairs of the Empire. The expressed understanding was in substance a promise of non-intervention, consequent on the solemn pledge given by Turkey to render their interference unnecessary, but the understanding ceases to exist when the pledges are broken which rendered the understanding possible. Had the Hatti-Sheriff not been issued the Contracting Powers would never have agreed to leave the Christians of Turkey to the tender mercies of their cruel rulers: but when the Turks came forward and proposed, in the most solemn form known to Turkish law, to do all for their Christian subjects which the Christian Powers could desire, and when that promise became incorporated in, and ratified by, the Treaty of Paris, then, and not till then, did the Christian Powers come to an understanding to abstain from doing what the Turks bound themselves to do. Whatever may have been the value of the understanding arrived at by the High Contracting Powers, in consequence of the Hatti-Sheriff having become an integral part of the Treaty of Paris, that understanding ceases to be obligatory as soon as the pledges are broken in consequence of which the understanding was arrived at; for we cannot suppose that the Contracting Powers would frame an Article, and then solemnly agree to consider it a dead letter. The pledge given by Turkey, and the expressed understanding of the Contracting Parties consequent upon that pledge, form the IXth Article of the Treaty of Paris. Can the pledge be broken, and the understanding remain in force? Or can Turkey openly and cruelly violate her solemn pledge, and the IXth Article remain in force? The promise, or rather understanding, of non-interference rests solely on the pledge, and when the pledge is broken or withdrawn, the foundation, or *raison d'être* of the understanding ceases to exist. The Contracting Powers agreed not to mix themselves up in the relations of the Sultan with his subjects, just because he gave them the most solemn pledge known to International and domestic law, to treat his subjects justly and rationally; but when he openly and cruelly breaks those pledges, the logical consequence is, that they will interfere on behalf of the people for whom the Firman was issued; or rather, they will insist that Turkey of herself cannot break with impunity the IXth Article of the Treaty of Paris.

On this subject the language of Mr. Gladstone is distinct and decisive. Speaking of the Hatti-Humayoun, he said, "We are entitled and bound to demand from Turkey the fulfilment of her literal engagements," and I am sure that Lord Derby will be no less decisive on this point when it is laid clearly before him.

I am, &c.

(Signed)

WILLIAM WRIGHT.

No. 71.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, July 16, 1874.*
 I TRANSMIT to you, for such steps as you can properly take in the matter, a Memorandum which has been sent to me by the Rev. Isaac Bliss, the Secretary of the American Bible Society, in regard to the prohibition of the sale in Constantinople of the Bible in the Turkish language. I likewise inclose a copy of the reply which I have returned to Mr. Bliss.*

I am, &c.
 (Signed) DERBY.

No. 72.

Lord Tenterden to the Rev. Isaac Bliss.

Sir, *Foreign Office, July 16, 1874.*
 I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 3rd instant, inclosing a Memorandum in regard to the prohibition of the sale in Constantinople of the Bible in the Turkish language; and I am to inform you, in reply, that your representations will be referred to Her Majesty's Ambassador at Constantinople; but his Lordship presumes that, so far as they relate to the operations of the American Bible Society, they have already been brought to the notice of the United States' Minister there.

I am, &c.
 (Signed) TENTERDEN.

No. 73.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, July 18, 1874.*
 I HAVE to convey to you my approval of the steps which you took on behalf of the convert Mustafa, as reported in your despatch of the 30th June last; and I have to instruct your Excellency to continue to urge on the Porte, whenever a suitable occasion shall occur, the necessity of observing religious toleration within the Ottoman dominions.

I am, &c.
 (Signed) DERBY.

No. 74.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, July 18, 1874.*
 WITH reference to my letter of the 19th of June last, I am directed by the Earl of Derby to inform you that his Lordship has received a Report upon the case of the man Mustafa, recently converted to Christianity at Marash, from Her Majesty's Ambassador at Constantinople, who had already been made acquainted with the circumstances by the Rev. G. Herrick.

His Excellency lost no time in bringing the matter to the notice of the Porte, and telegraphed to Her Majesty's Consul at Aleppo for full particulars. Meanwhile, the man, accompanied by the greater part of his family, had arrived at Constantinople, but still remained in prison.

Sir H. Elliot again protested against the treatment of a man as a criminal simply because he professed the Christian faith, and received assurances from the Porte that if any such treatment had taken place, it was entirely without the sanction or knowledge of the superior authorities, and that the case should be investigated and remedied.

* Nos. 66 and 72.

Aarifi Pasha added that Mustafa had been removed from Marash for his own security, and that, as his appearance there would almost certainly be the signal for disturbances among that fanatical population, it was not desirable that he should be allowed to go back there at present.

Sir H. Elliot concurred in this view, but strongly insisted that one of his daughters, who had been kept at Marash, should be allowed to join her father.

Mustafa and family were thereupon sent to Smyrna, with orders to remain there. Sir H. Elliot has, however, remonstrated against this order as unjustifiable, on the ground that if it is not expedient that the convert should live at Marash, there can be no pretext for denying him complete liberty in fixing his residence in any other part of the Empire.

I am, &c.
(Signed) TENTERDEN.

P.S.—Lord Derby desires further to acknowledge the receipt of your letter (without date), received on the 11th instant, and to add that a copy of it shall be sent to Constantinople.

No. 75.

The Rev. W. Johnston to the Earl of Derby.—(Received July 20.)

My Lord,

Dunedin, Belfast, July 16, 1874.

I WROTE some ten days ago a brief note acknowledging receipt of your Lordship's letter of the 24th June, intimating that a despatch had been received from Her Majesty's Ambassador at Constantinople, stating that "the Grand Vizier had consented to give orders for the removal of the Ansairiyeh conscripts to Constantinople."

Whilst we all gratefully acknowledge the prompt and generous action of Her Majesty's Government, I am sorry to inform your Lordship that our Mission Board do not consider the removal of the so-called conscripts to Constantinople as by any means a satisfactory issue of this painful case.

On reference to the documents which have already been placed in the hands of the Government, you will find, my Lord, that the facts of the case are as follows:—

1. The three Ansairiyeh had been for a period of about fifteen years professed Christians, engaged as school-teachers by the American Mission, and had paid to the Turkish Government the poll tax, which, according to the law of the Empire, exempts Christians from military service.

2. They were, on the 7th of September, 1873, seized by order of the Governor of the district in which they resided; sent in chains to Jeboli, and thence in succession to Tartus, Tripoli, Beyrout, and, finally, to Damascus, the only charge against them being that they were Christian converts.

3. At Damascus cruel attempts were made by threats and promises to induce them to abandon their faith. When these failed, then they were forced to go through the formality of drawing from the ballot box, and were of course consigned to the army. Their seizure was thus illegal, and their conscription an imposition.

4. The Turkish authorities, in reply to your Lordship's urgent remonstrances, promised their immediate release in February last. Instead of fulfilling their promise, they treated the men with increased cruelty; they beat them and imprisoned them in chains for the avowed purpose of forcing them to apostatise. The latest accounts from Damascus state that their persecutions are still continued, and in consequence of the treatment one of them has now so long received, his life is in imminent danger.

5. By the Hatti-Sherif, and the Treaty of Paris based upon it, the Turkish Government gave a guarantee to the Western Powers that it would henceforth grant full religious liberty to all its Christian subjects. That guarantee it has openly violated on the persons of the three Ansairiyeh.

Such being the facts of the case, and the action of the Turkish Government involving the lives and liberties of three men, and the welfare, if not the very existence, of all mission work in the East, I speak the mind of the Presbyterian Church in Ireland and of various denominations of British Christians in earnestly urging your Lordship to demand, in accordance with the Treaty of Paris, the immediate release of the so-called conscripts, and our Mission Board cherish the assurance that nothing short of this should or will satisfy Her Majesty's Government.

In this hope, I have, &c.

(Signed) WM. JOHNSTON.

No. 76.

*The Rev. J. Davis to the Earl of Derby.—(Received July 20.)**Evangelical Alliance, 7, Adam Street, Strand,
London, July 18, 1874.*

My Lord,

I HAVE the pleasure to inform you that on Wednesday last I had the honour of an interview, through the kind introduction of Lord Ebury, with the Count von Beust respecting the recent persecutions in Syria, and the violation of the Sultan's Firman on the subject of religious liberty.

At this interview I mentioned the great obligation to which the Council of this Alliance are under to your Lordship for the valuable efforts already made by Her Majesty's Government in this matter, and also the assurances I received lately from the Duc Decazes of active support from the French Government.

His Excellency informed me that he would communicate with his Government, with a view to his obtaining their aid in support of the representations already made to the Porte by other great Powers.

I ask your Lordship's permission to inclose a statement drawn up by Lord Stratford de Redcliffe, which I have his permission to publish.

I have, &c.
(Signed) JAMES DAVIS.

No. 77.

*Vice-Consul Green to the Earl of Derby.—(Received July 21.)*My Lord, *Damascus, July 8, 1874.*

I HAVE the honour, with reference to the case of the three Ansairiyeh Christian soldiers, to transmit herewith, for your Lordship's information, the copy of a despatch I have this day addressed to Sir Henry Elliot, reporting to his Excellency that two of the soldiers are said to have deserted, and that the third, Daoud Suleiman, has once more been placed under arrest, prior to being sent to Constantinople.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 77.

*Vice-Consul Green to Sir H. Elliot.*Sir, *Damascus, July 8, 1874.*

I HAVE the honour to report to your Excellency that two of the Ansairiyeh Christian soldiers, Selim Khalify and Insef Gedid, have been missing from the ranks of their respective regiments for the last fifteen days.

A Turkish officer was sent to me on the 5th instant to inquire if the men were being harboured in the Consulate. On the following day I personally expressed my regret to the Commander-in-chief that the idea should have been entertained for a single moment that I could countenance a recourse to illegal proceedings to obtain the freedom of the men. Jawer Pasha then assured me that there could be no doubt that the two men had deserted, and that they had not been included in the drafts of Arab soldiers destined for service in Yëmen. I have found, however, that his Excellency is kept so ill-informed by his subordinates of the administrative details of his army corps, that I have some hesitation in accepting his assurances as conclusive.

Jawer Pasha also told me that the remaining Ansairiyeh Christian, David Suleiman, is about to be sent to Constantinople, in conformity with instructions received from the Porte. I have since ascertained that Daoud Suleiman has been once more placed under close arrest.

I have, &c.
(Signed) W. KIRBY GREEN.

The Rev. G. Wood to the Earl of Derby.—(Received July 21.)

My Lord, Constantinople, July 14, 1874.

THE inclosed copy of a letter to the Evangelical Alliance in London has been made for your Lordship's perusal, in the humble hope that the subject to which it relates may not fail of being of interest to your Lordship, as well as to the Representative of Her Majesty's Government at the Porte, to whom also a copy of the same communication will be submitted immediately.

With the highest respect, &c.

(Signed) GEO. W. WOOD.

Inclosure in No. 78.

Letter from the Turkey Branch of the Evangelical Alliance to the British Organization, in relation to a case of religious persecution and the violation of pledges by the Turkish Government in favour of religious liberty.

Dear Brother, Constantinople, July 9, 1874.

YOU have received information of the arrest and cruel treatment of a Turk, his son, a youth of seventeen years, and his wife, who, in Marash, in Northern Syria, have lately declared themselves Christians in a public manner. The circumstances of this case being such as to make it an unequivocal test of the policy of the Turkish Government in regard to the maintenance of its guaranties heretofore given in favour of religious liberty, the Turkey Branch of the Evangelical Alliance, through the undersigned, as a Special Committee, desire to lay before the Council of the British Organization a connected statement of the facts, and invoke attention to the violation of the solemn pledges of the Sultan by the Turkish authorities.

You have already learned that the above-mentioned persons, Mustapha, Ali, and Razié, were brought forcibly to Constantinople, put in separate places of confinement, and afterwards taken under guard to Smyrna.

A narrative of the events following the attendance of the father and son at one of the Protestant Armenian churches in Marash has been written by Mustapha, and sent to us from Smyrna. This statement, confirmed to us from other sources, we give in his own words :—

Mustapha's Narrative.

"On May 3 (Sunday) a company of the people of Marash, some with clubs, and some with swords, surrounded my house, and with abusive language, said, 'Come out, and we will show you what Christianity is, and what Islam is.' I replied, 'Go and report us to the Government.' They said, 'We are the Government, and have come to kill you. Come out, and we will show you what you are coming to.' After thus threatening us they scattered to their places.

"The next day, an hour before sunset, we were summoned before the Government, and the Governor said, 'I hear you have been to Christian worship; why have you done so?' I answered, 'Simply because I have accepted Christianity.' Then he exclaimed, 'Carry this fellow off;' and I was taken to prison, and my son with me.

"In the prison certain rich men called me to them, and said, 'We will each give you some thousands of piastres, and agree to supply any want you have, if you will come back to your old faith.' This offer they made repeatedly. We replied, 'We have not accepted the gospel for gold or silver, or any such thing, but simply because we hope for salvation in this faith.'

"Meantime, all those in the prison said, 'These hogs are fit only to be butchered;' and they spat upon us and insulted us until midnight.

"About an hour after midnight our hands were bound behind us, and we were driven off on foot before three armed horsemen a distance of 100 miles, to a village six hours from Aleppo. There we were met by five horsemen and a regimental scribe, an equal number having been sent off on another Marash road. The men who had us in charge brought us to where the scribe was waiting, and he then said: 'What is this you are doing? We have never heard of such a thing as this. My son, these Protestants are accustomed to give 10*l.* to each convert. If you have received this money give it

back, and the Government will give you double. Come, give this thing up.' We replied: 'We cannot accept any such thing. Man does not live by money or other things of that sort, but by the Word of God.' The scribe answered, 'Go back to Islam, and I will make you a sergeant, and I will keep your son Ali in my service at 5 livres a month.' 'Sir,' we said, 'we cannot accept your offers. We receive the gospel, we do not accept money.'

"The scribe soon mounted his horse and left for Aleppo. An hour after we left and went to a place called Erymeydan, just out of the city of Aleppo. There two of the police met us and ordered us to halt. Two hours before sunset two horsemen and a Lieutenant came up, and the officer said harshly, 'Get up.' I said, 'Where are you going to take us?' Again he said harshly, 'We are going to kill you,' and then drove us before him. On the way the Lieutenant said, 'Don't persist in this. I will give your son my horse, worth 5,000 prs.; mount him and go.' We refused his offer, and they drove us on to a village called Haylanbeghazer, two hours' distance from Aleppo. There they put our feet in fetters, and imprisoned us under the care of five armed men, and we were exposed to the abuse of the people of the village.

"The scribe of the Mufti of Aleppo came, and with his help my son made out a petition, in which I declined to answer questions there put to me by persons from Aleppo, but asked to be brought before the Governor, where I was ready to answer. The next day the Mufti of Aleppo brought Ali to his garden, near the village, and said, 'My son, we are going to kill you; you will be sorry for this afterwards.' Ali replied, 'Sir, I accept the will of God. Do what you will.' Then the Mufti said, 'Take this traitor to the Pasha.' The Pasha, however, did not bring him before him, but ordered him to be conducted back to his father.

"There we remained imprisoned thirteen days, and at midnight a captain came and took off the fetters from our feet. Early in the morning they brought my wife from Marash, the Governor there having seized my other three children and kept them in Marash. We were all mounted on animals, and sent off under guard of a sergeant and five soldiers. In answer to our inquiry, they told us we were going to Stamboul.

"We missed the Turkish steamer at Alexandretta, and after being imprisoned eight days there we were put on board a Russian steamer and taken to Stamboul, where, without examination of any kind, we were imprisoned eleven days, and then put on a Turkish steamer and brought to Smyrna, and kept in prison until the afternoon [of June 18] when we were summoned before the Governor. The Vizirial letter from Stamboul was read to us. It was this:—

"'You are to give surety that you will not set foot in your native city; that you will not leave Smyrna; that you will come here every week and report yourself; that you will inform the Governor whatever you do; and that you will not go a half hour's distance from the city without notice here.'

"Then we found certain Protestant brethren, and lodged in the chapel. Thus, thanks to God, we have, by His grace, and with our Master's powerful aid, girded on the spiritual armour and overcome our enemies. We beg that special prayer may be offered for us.

(Signed)

"MUSTAPHA.

"ALI

"RAZIÉ.

"Smyrna, June 22, 1874."

No different version of the facts from that above presented has been made by any one. It is fully confessed that these three persons have been thus dealt with for no offence but that of renouncing Mahommedanism for Christianity. It is not pretended that they were carried away from their home in chains for their protection. Their lives were threatened, their persons abused, their liberty taken away, and now they are in banishment with no provision for their support, while the three younger children of the afflicted parents are kept at Marash in Moslem hands, solely to force the parents and son back to Mahommedanism. What adds to the gravity of these events is that this policy of persecution, it is understood, is defended by the Grand Vizier, who has declared in personal interviews with foreign Ministers that the conversion of a Moslem to Christianity is an impossible thing in Turkey.

We beg to call special attention to the significance of the fact that the Government pleads no embarrassment from the difficulty of controlling the Mohammedan population of Marash. The pastor of the church there, with which Mustapha and Ali sought connection, and who is now here at the capital, believes that no difficulty would arise from Mustapha's return thither if such orders were issued for his protection as the people should understand were to be obeyed. It is also plain that imprisonment, banishment,

and deprivation of the means of living, are as glaringly in contravention of past pledges of the Imperial Government as would be the renewal of the beheading. Indeed, the death penalty is only altered in name if men may be starved and tortured out of life by barbarous treatment.

Referring to the punishment of death as applied to apostates from Islamism, the Earl of Clarendon, as English Minister of Foreign Affairs, in one of his despatches twenty-one years ago, wrote thus to Lord Stratford de Radcliffe:—"As the Turkish Empire is by Treaty stipulations to be declared part and parcel of the European system, it is quite impossible for the Powers of Europe to acquiesce in the continuance in Turkey of a law and a practice which is a standing insult to every other nation in Europe."

Again, on the 17th September, 1853, the Earl of Clarendon wrote thus to Lord Stratford:—"Her Majesty's Government distinctly demands that no punishment whatever shall attach to the Mohammedan who becomes a Christian, whether originally a Mohammedan or originally a Christian, any more than a punishment attaches to a Christian who embraces Mohammedanism. In all such cases the movements of human conscience must be left free, and the temporal arm must not interfere to coerce the spiritual decision."

It was under the pressure of such demands, and in order to its recognition as "a part and parcel of the European system," that the Turkish Government issued various edicts of freedom and reform; and, finally, the new edifice was founded on the Magna Charta of the Hatti-Humayoun, proclaimed in irrevocable terms by the Sultan, February 6, 1856, and formally recognized by the Contracting Powers in the Treaty of Paris. This document sets forth in various forms the equality of Mohammedans and Christians, and in regard to religion says: "As all forms of religion are and shall be freely professed in my dominions, no subject of my Empire shall be hindered in the exercise of the religion that he professes, nor shall be in any way annoyed on this account. In the matter of changing one's religion, no force shall be employed." [Such is the accurate rendering of the Turkish text.]

Now this was a direct and unequivocal pledge to the Christian world, and particularly to the parties to the Treaty of Paris, that the rights of conscience should be sacredly regarded in respect to every subject of the Turkish Government. The language has no meaning, and is a delusion and a fraud if it does not guarantee to every Mohammedan the right of living as a Christian without being in any way annoyed if he choose to profess the Christian faith.

So it was received and understood at the time his Excellency Fuad Pasha, in an annex to the Hatti-Humayoun, addressed to the Ambassadors of the Allied Powers, in the name of the Sultan, stated in express terms that the provisions of that document were intended to meet the demands of the Powers to whom Turkey was under an obligation of gratitude for its salvation in the hour of peril, and used the following words:—"The Sublime Porte renews and confirms the assurances which it gave at that time (in 1843) to the Governments of France and England relative to the question of renegades. The Sublime Porte moreover declares that the decision come to at that period shall be henceforth applied to all renegades in general." . . . Lord de Redcliffe, in a despatch to the Earl of Clarendon, commented on this as follows:—"If no one is to be molested on account of the religion he professes, and no one to be punished as a renegade, whatever form of faith he desires, I do not see what room there can possibly be for any practical persecutions in future within the limits of the Sultan's Empire."

See correspondence respecting Christian privileges in Turkey in Parliamentary Papers for 1856, pages 15, 24, 25, 33, 55, 60, 66, 67, 77—80.

The evidences of a disposition on the part of the Turkish Government practically to repudiate these pledges given as its return for the lavish expenditure of life and treasure by Christian nations in its defence, and on the ground of which Turkey has been admitted to a partnership in the European system and the privileges of Christian international law, are unhappily multiplying, and have become very threatening. It is seen in the continued grievous oppression of the three Ansairiyeh Christian teachers, whose release, often promised by the Porte, has not yet been granted. It is manifested by frequent vexatious hindrances to the erection of places of worship and school buildings by native Protestant Christians, and the circulation of Protestant publications, such as have had the sanction of the censorship for many years, and for which the regular dues have been paid at the Custom-house; the manner of dealing with local authorities in such cases being often such as to show that orders obtained from the Porte are not given to be carried into execution. It is exhibited by new interferences, especially with the sale of Turkish Scriptures; the farther printing of them is forbidden without special

permission; and we are assured that the Grand Vizier has stated to the American Minister that the Government intends to prohibit altogether the printing and circulation of the Bible, and all parts of it, in the language and character read by its Turkish subjects.

The gaining of the solemn pledges of the Hatti-Humayoun mainly through the instrumentality of Great Britain has justly been looked upon by the Christian world as one of the brightest jewels in the crown of Britain's Queen. Will the Government and people of Great Britain allow that honour now to be lost? Shall we not again hear, in tones that will command respect in the Councils of the Porte, from His Imperial Majesty's Minister of Foreign Affairs, the declaration of the public sentiment of Christendom, and that it is impossible for the Powers of Europe to acquiesce in the disregard of Turkey's plighted faith by the continuance under the Government of the Sublime Porte of a course of action, which is in effect a revival of a law and a practice which is a standing insult to every other nation in Europe. Not retrogression, but advance in the policy of justice, equality of rights, and a higher civilization, is the condition of order, peace and prosperity in the Turkish Empire, and the interest of all nations in their relations with it.

(Signed) GEO. W. WOOD,
ALEXANDER THOMPSON,
R. H. WEAKLY,
GEO. F. HERRICK,

Committee of the Turkey Branch of the Evangelical Alliance.

No. 79.

Sir H. Elliot to the Earl of Derby,—(Received July 22.)

My Lord,

Therapia, July 9, 1874.

THE convert Mustafa, since his arrival at Smyrna, has given accounts of the treatment to which he had been subjected which reflect as little credit upon the authorities of the capital as upon those of the Provinces.

From inclosed statement which has been given me by my American colleague, to whom it had been sent by the American missionaries, it is impossible to avoid coming to the conclusion that this poor man has been and still is regarded as a criminal solely on account of his having adopted the Christian faith.

I have represented to Aarifi Pasha that the instructions sent to the Governor-General of Smyrna are altogether at variance with the assurances he had given me that Mustafa was not to be treated as if he had committed a crime, and I requested that orders in a different sense from those at first given should be sent to the Governor-General of Smyrna.

His Excellency has promised to do so, and I shall endeavour to ascertain the precise bearing of these new instructions.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 79.

Account of what was endured by Mustafa and his son Ali, of Marash, because of their Confession of their Christian Faith.

[This is embodied in Inclosure in No. 78.]

No. 80.

The Rev. J. Davis to the Earl of Derby,—(Received July 23.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, July 23, 1874.*

My Lord, I AM directed by the Council of this Alliance to acknowledge with their best thanks the receipt of a communication from your Lordship dated the 18th instant.

I am also instructed to inclose copies of letters, one from Constantinople on the

subject of the persecution and banishment of Mustafa and members of his family, and one from Damascus relating to the Ansairiyeh Christians.

I would beg to call your Lordship's special attention to that portion of the memorial from Constantinople which deals with the statement made by Aarifi Pasha to Her Majesty's Ambassador, that Mustafa had been removed from Marash for his own security, a statement inconsistent with the cruel usage and imprisonment to which he had been subjected and with the Vizirial Order not to leave Smyrna, against which Sir Henry Elliot has most properly remonstrated.

I remain, &c.
(Signed) JAMES DAVIS.

Inclosure 1 in No. 80.

Letter from the Turkey Branch of the Evangelical Alliance, July 9, 1874.

[See Inclosure in No. 78.]

Inclosure 2 in No. 80.

The Rev. W. Wright to the Rev. J. Davis.

My dear Sir,

Damascus, July 5, 1874.

YOUR letter of the 12th June, containing note from the Foreign Office, to hand.

I regret that the Turks have succeeded in driving Yousef Jedid and Selim Khalify to desert. They have been missing for ten days, and as the authorities made no inquiries about them, I feared that they had been sent off to Yemen (and probably they have been). Yesterday I saw Dawoud Suliman. He told me he believed they had deserted, for they were in great terror. Khalify had been promoted, and again degraded, because he was a Christian. When he still adhered to the statement that he was a Christian, he was told to prepare to be hanged. As a preliminary, he was told to eat dirt, &c. Jedid was being also ill-treated. While this treatment was being persevered in, every facility was given them to desert, and though they escaped on the 25th June, no inquiries were made about them till the 5th July, ten days after their escape. It was the custom to let them go about under a guard. How, then, did they for once let them out alone, and made no inquiries about them for ten days? Mr. Green had an interview with the Mushir this morning, and told him that "Yousef Jedid and Selim Khalify had been reported to his Excellency as deserters. The other Ansairiyeh conscript, Dawoud, is about to be sent to Constantinople in conformity with orders received from the Porte."

Mr. Green writes me, under the same envelope that incloses this official news, "I hear Dawoud is in prison."

They will do everything short of taking his life to make him desert too. They may just go a little too far, for I guarantee that Dawoud will not desert. I had a long conversation with him yesterday, and he seems resigned to the will of God, and that you are working for him. He recognizes the value of the services he may be rendering to his country by holding firm. Dawoud is the man who has suffered most, and the one that I have had most confidence in. We must not leave him, nor slack our efforts, for he is not responsible for what the others have done. Besides, it is not certain that they have deserted, nor would desertion, though a blunder, be a crime under the circumstances.

I think, however, their desertion settles the question of their hard treatment. If they had been fairly treated, as the Turks allege they have been, they would not have taken so grave a step as desertion, when their friends here and elsewhere were working for their deliverance, and when they had a prospect of a speedy deliverance.

I hope you got my letter on the Hatti-Sherif and Lord Derby's difficulty.

Hoping that our labours in this matter shall not be in vain, I am, &c.

(Signed) WM. WRIGHT.

No. 81.

*Lord Tenterden to the Rev. G. W. Wood.*Sir, *Foreign Office, July 25, 1874.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 14th instant, inclosing copy of a communication addressed by yourself and others to the Evangelical Society in London, relative to recent cases of alleged religious persecution in Turkey.

I am, &c.
(Signed) TENTERDEN.

No. 82.

*Vice-Consul Green to the Earl of Derby.—(Received July 27.)*My Lord, *Damascus, July 12, 1874.*

I HAVE the honour to transmit herewith the copy of a despatch sent by me this day to Sir Henry Elliot, and reporting to his Excellency that the remaining Ansairiyeh Christian soldier has already been dispatched to Constantinople.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 82.

*Vice-Consul Green to Sir H. Elliot.*Sir, *Damascus, July 12, 1874.*

WITH reference to my despatch of the 8th instant, I have the honour to report that the Ansairiyeh Christian soldier, Dawoud Suliman, has already been dispatched from this for Constantinople.

I have, &c.
(Signed) W. KIRBY GREEN.

No. 83.

*The Rev. W. Johnston to the Earl of Derby.—(Received July 27.)*My Lord, *Belfast, July 25, 1874.*

I HAVE been directed by the Board of Missions of the Presbyterian Church in Ireland to submit, for the consideration of your Lordship and the Government, the following statement in relation to the Syrian conscripts, which has just been received from the Rev. William Wright, our missionary at Damascus, a sincere friend of the prisoners, and one on whose statements the utmost confidence can be placed:—

“Damascus, July 7, 1874.

“I am sorry to have to announce two of the conscripts missing. I feared they were made away with in some manner; but the one who remained, Dawoud Suliman, tells me he thinks they have deserted.

“Of late Lord Derby has been pressing the Turks hard to let these men free. The Turks are now anxious to be rid of the men in any way they can, so that they have not to concede the principle of religious toleration. Khalify was again promoted, and again degraded, because he was a Christian. When he continued to declare himself a Christian, his officer told him ‘to prepare for hanging.’ As a preliminary, the Christian dog was to eat dirt, &c. Tousef Jeded was at the same time cruelly treated, and facilities were given them to desert.

“They went on the 25th June, and no inquiries were made about them till the 5th July, ten days. The Commander-in-chief told the Consul yesterday, 6th July, that Dawoud Suliman would be sent up to Constantinople to have his case decided, but the same evening the Consul heard that Dawoud was in prison.

"Evidently the Turks will use every means to make Dawoud desert also, but I am confident he will hold firm, and it is just possible they may carry their cruelties a little too far."

"If he goes to Constantinople some one must go with him to protect him. I hope the Rev. J. Beattie may be induced to go. If not, it is possible I may have to go. It will not be an enviable mission for whoever goes; but if we could save the man, and secure the principle, it would be an enormous gain for the Empire. I know the case best, and would have most influence in Constantinople, as I know most of the English Mission, and Sublie Pasha, of the Privy Council, is a great friend of mine; but Beattie knows the man best, and he should go."

Thanking you, my Lord, for the prompt and continuous attention you have given to this important case, and hoping you will demand and secure their immediate release,

I remain, &c.
(Signed) WM. JOHNSTON.

No. 84.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, July 31, 1874.*
I HAVE to convey to you my approval of the representations which you made to Aarifi Pasha with reference to the ill-treatment of the conscript Mustafa, as reported in your Excellency's despatch of the 9th instant, and I have to instruct you to continue to urge upon the Porte the better treatment of this person, and that his children should be restored to him from Marash.

I am, &c.
(Signed) DERBY.

No. 85.

Lord Tenterden to the Rev. W. Johnston.

Sir, *Foreign Office, July 31, 1874.*
I AM desired by Lord Derby to acknowledge the receipt of your letter of the 25th instant, communicating further intelligence from Damascus respecting the Ansairiyeh conscripts.

I am, &c.
(Signed) TENTERDEN.

No. 86.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, July 31, 1874.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 23rd instant, inclosing copies of a letter from Constantinople on the subject of the persecution of Mustapha and members of his family, as well as of a letter from Damascus relating to the Ansairiyeh Christians.

I am, &c.
(Signed) TENTERDEN.

No. 87.

The Rev. J. Davis to the Earl of Derby.—(Received August 2.)

My Lord, *Evangelical Alliance, 7, Adam Street, Strand,
London, July 31, 1874.*

I AM instructed by the Council of this Alliance to inform your Lordship that, since the date of my last letter, further communications have been received, from which I select the following extracts:—

(No. 1.)

"Damascus, July 12, 1874."

"On Sunday last, Dawoud Suliman was imprisoned, at 11 o'clock, in a most filthy Damascus prison. On Thursday, Salim Meshada, dragoman of the Damascus Consulate, saw him in Beyrout, on his way to Constantinople, in custody. Nothing more has been heard of the others. Some think that they have been disposed of, others that they have deserted."

(Signed) "WILLIAM WRIGHT."

(No. 2.)

"Constantinople, July 16, 1874."

"Yours of the 7th instant, with its inclosure, is received, and has given us encouragement. We are preparing to go to several Embassies, including the French, at the earliest day. I am sorry that I cannot report anything done or doing by the British Embassy. We have received neither answer nor acknowledgment to our four communications on the matter of Mustapha since June 6th."

(Signed) "GEORGE F. HERRICK."

(No. 3.)

"Constantinople, July 24, 1874."

"On Tuesday last, the Rev. Dr. Wood and myself had an interview with the British Ambassador."

"We told his Excellency we had come for information with reference to the case of Mustapha, inasmuch as we had received no reply to our repeated communications, and we desired to have somewhat to write to you. He replied, 'There is little information to give.'"

"I informed Sir Henry Elliot that I had received a Petition from Mustapha to the Grand Vizier, asking for the restoration of his children. He said, 'That is a very proper petition for him to present.' I asked if he would allow his dragoman to put it into the Grand Vizier's hands. He replied, 'No, I should not wish to do that;' and added, 'Let it go directly from Mustapha.'"

"Sir Henry also expressed himself strongly to [the effect that it could not be demanded that Christian Turks should, like other Christians, be exempted from military service; and although he granted that Christians in the army should not be molested on account of their religion, yet he did not encourage any hope of their being free to the exercise of their Christian worship. Who shall present his petition and plead his cause, if the British Ambassador does not? Adopt the positions of Sir Henry, and there is absolutely no hope that a Turk can hereafter accept and confess Christianity in this Empire and retain any of his rights as a citizen. He is imprisoned, banished, deprived of the means of support, torn from his family, Christian communities are not permitted to receive him, and when we appeal to the Hatti-Humayoun, we are told that that Charter does not apply to Moslems; he is enrolled in the army, and we are told on the one hand that there can be no Christianity in the army, and on the other hand that we cannot claim that the Turk becoming a Christian shall be released from the duty of military service to the Moslem State. But, surely, if a Christian Turk be made to serve in the army, other Christians should be made also to serve, and a Christian chaplain should be allowed them. The Christian Turk should be put on the same ground as other Christians."

"Our printing of the Bible remains arrested. The Government will prevent both printing and sale of the Bible in Turkish if it dare do so."

"We are told, officially, that two of the Lattakia teachers have deserted from the army. One is said to be here, but we cannot learn where, except that he is under strict guard. After the perfidious advice to those men to desert, given by the officers of the army at Damascus, we shall, till we hear of them out of the army, hold our own opinions as to what has been done with them."

"I know I need not tell you, after what I have written, that our hope, from human sources, is in what you can do in London."

(Signed) "GEORGE F. HERRICK."

Referring to the excuse of the Turkish Government mentioned in Sir Henry Elliot's letter to your Lordship, that imprisonment—forced removal of Mustapha and his son, were for their personal safety, I would call your Lordship's attention to the fact that the same excuse was made in 1855, and was then repudiated by Lord Stratford de Redcliffe, in a despatch dated October 16, 1855:—

"The confinement of accused individuals, their removal to a distance for trial, and their temporary exile, were treated as means employed of necessity by the Government to evade the violence or to deceive the bigotry of an exasperated populace." But Lord Stratford adds, "this is an excuse which it is dangerous to accept."

The same excuse was also urged in 1864, when Moslem converts in Constantinople had been arrested, imprisoned, and removed to a distance, but subsequently restored to liberty through the interposition of Her Majesty's Government, on which occasion Earl Russell, in his despatch dated December 15, 1864, addressed to Her Majesty's Chargé d'Affaires at Constantinople, wrote, "I must ask assurances for the future, and if in reply I am to be told that the reference to the Hatti-Humayoun in the Treaty of 1856, and the promises made to Lord Stratford de Redcliffe, have no practical value, and that neither missionaries nor converts can derive any protection from these documents, I am convinced the feelings of the English nation towards Turkey will be very seriously affected, and their disposition to defend the integrity of the Turkish Empire much abated. I must desire you to obtain from Aali Pasha assurances that religious freedom will not hereafter be assailed or restricted by the Turkish Government."

In the present instance, permit me to call your Lordship's attention to an extract from the Memorial addressed to the Council of the British Organization of this Alliance by the Turkish Branch at Constantinople, which adverts to the significance of the fact that the Government, at the commencement of the violent proceedings, pleaded no embarrassment from a difficulty of controlling the Moslem population at Marash. The pastor of the church with which Mustapha and Ali sought connection believes that no difficulty would occur from their return thither if such orders were issued as the people knew would be obeyed.

I would further ask your Lordship's careful attention to a statement which appears to have been made by some of the Turkish authorities that the Hatti-Humayoun does not apply to the Moslems.

Such a statement is clearly at variance with the explanation given at the time the Firman was issued by Fuad Pasha, on behalf of the Porte, in a note addressed to the British Ambassador. Lord Stratford de Redcliffe, writing to the Earl of Clarendon, on the 12th of February, 1856, said, "I have received from Fuad Pasha the note which he had promised. Your Lordship will perceive that the Porte acknowledges and confirms its former declarations respecting renegades, and extends it expressly to all, including Mussulmans, though not mentioned by name. It is an official note, signed by the Secretary of State, and given expressly with the Sultan's sanction."

Allow me to add, in conclusion, it may be supposed, or at least hoped, that if your Lordship's instructions are faithfully and vigourously carried out by Her Majesty's Representative at Constantinople, the Porte will see that, in the interests of Turkey, as well as of humanity, the men who have suffered these grievous wrongs should be at once restored to their homes and useful occupations, under a protection sufficient to remove any fears that the intolerance will be repeated. Less than this, I would venture to remark, will not allay the painful sentiments awakened throughout Christendom by these acts of persecution on the part of Turkey, nor, I presume, will less satisfy those Powers which have united in remonstrances against the violation of a solemn engagement in which they, as well as the Turkish nation, are concerned.

I am, &c.
(Signed) JAMES DAVIS.

No. 88.

The Rev. J. Rogers to the Earl of Derby.—(Received August 3.)

My Lord, Belfast, July 31, 1874.

I HAVE the honour to inclose an extract from the last letter I have had from our missionary at Damascus, touching the case of one of the unfortunate Syrian conscripts, and to invite your Lordship's attention to its contents.

Thanking your Lordship for your great kindness and expressing the hope that your Lordship will pardon all the trouble we have given,

I have, &c.

(Signed) JOHN ROGERS, *Convener of the Irish Mission
Presbyterian Church in Ireland.*

Inclosure in No. 88.

The Rev. W. Wright to the Rev. J. Rogers.

Dear Mr. Rogers, *Damascus, July 12, 1874, Sunday evening.*

I HAVE just heard since the morning service that Salim Dawoud was seen in Beyrout on Thursday last in custody *en route* to Constantinople. He will leave Beyrout probably to-morrow. He was imprisoned four days before leaving Damascus in a most filthy prison. The British Government should get him a fair trial.

Yours in haste,
(Signed) WM. WRIGHT.

No. 89.

The Rev. J. Martin to the Earl of Derby.—(Received August 4.)

My Lord, *Lorne Place, Greenock, July 31, 1874.*

I AM the British missionary to the Ansairiyeh in Turkey, and feel deeply interested in the persecuted Christians at Damascus, who are personally known to me. Permit me, therefore, to address your Lordship on the present position of the case.

From the substance of Sir Henry Elliot's despatch contained in your Lordship's letter of June 24 to the Secretary of the Evangelical Alliance, it appears to me that the case is likely to be misunderstood. In no proper sense of the term can the men be called Ansairiyeh "conscripts." The time when they were apprehended was not the time for conscription; and no general conscription was taking place. These men, and these alone, were taken. At their arrest, no intimation was made to them that they were about to be enrolled in the army. On Sabbath, September 7, 1873, they were invited by the Governor of Lattakia to visit him at his tent in the mountains and converse with him regarding the mission schools. Soon after their arrival, they were surrounded by a company of soldiers and charged with embracing the Christian faith. On their refusing to renounce Christianity, they were put in chains, denied food and drink, and made to lie two nights upon the earth and stones, although food, drink, and beds were provided for them by friends. They were bound and led to prison first at Jebeli, then at Tripoli, and finally at Damascus. Enrolment in the army was wholly an afterthought. Even regular conscription in their case was inconsistent with Turkish law. Turkish law exempts from conscription Christians who pay the tax, teachers and heads of families. These men are heads of families, teachers, and were ready to pay the tax. At first, it was clearly persecution of Christians because of their Christianity; and persecution it has continued to be though the Turkish endeavour is now to set forward conscription in their own defence.

Sir Henry states that the "mere fact of their being Christians does not entitle them to exemption from military service." Their liberation is not asked for on this ground. But the fact of their being teachers; the fact of their being heads of families; the fact of their exemption tax being offered—any one of these mere facts does, Turkish law itself being witness, entitle them to exemption from military service. Besides the "mere fact of their being Christians" ought not of itself to subject them to imprisonment, unlawful conscription, or any improper treatment.

His Excellency considers that, by the removal to Constantinople, there will be a better prospect of obtaining their good treatment and possibly their discharge. The question is not one of good treatment alone; it is one of immediate release. It is not a question of liberty under conscription (so called): it is one of liberty from conscription. Illegal conscription is part of the persecution they are compelled to undergo. Conscription itself is opposed, as is plain from the three provisions above named, to their liberty as subjects and as Christians.

It seems that their removal to Constantinople is at the suggestion of Sir Henry. What benefit is to be obtained by this change, I am unable to perceive. Such a course

of procedure, implying, as it does, that compliance with the Sultan's orders cannot be secured in Damascus will tend to encourage Mahometan fanaticism in Syria and seriously retard the progress of Christianity there. Nothing short of their release without further delay and their transmission to their families from whom they were allured under false pretences can satisfy the claims of law and liberty. Their removal to Constantinople is, apparently, opposed to both.

Sir Henry is evidently aware of the cruel sufferings the men have had to endure. He had, no doubt, or should have had, full information from the British Consul at Damascus of the whole facts of the case, and must have known that the facts were contrary to Turkish representations. On December 30, 1873, a despatch was addressed to His Excellency instructing him to "express to the Porte the earnest hope of Her Majesty's Government that orders will at once be given for the release of the men, if such directions have not already been sent." In these circumstances, it is strange that Sir Henry has not adopted more vigorous measures for their liberation. Had he promptly followed out the despatches of the Foreign Office at first, the serious issues now surrounding the case would have been averted.

As I had anticipated for some time, the intolerable cruelties inflicted on these Christians have constrained two of them to seek liberty by flight. It may be that the Turkish Government will treat them as deserters from the army, whom they may punish as they please without fear of any interference from without. Legally, deserters from the army they are not. Escape from intolerance and persecution cannot be a crime. Were the remaining prisoner to escape also, this would not remove the guilt incurred by the Turkish Government through their persistent violation of the first principal of civil and religious liberty.

What is contended for by the friends of Christianity in Turkey is principally this: That Christians should not be chained, or illegally forced into the army or subjected in any way to insult and injury by any Government because of their Christianity.

Your Lordship's interest in this matter has called forth the expression of the regards and gratitude of Christian men in all countries; and it is hoped that your continued efforts for the maintenance of liberty in Turkey will speedily effect long desired and happy results.

I have, &c.
(Signed) JAMES MARTIN.

No. 90.

Sir H. Elliot to the Earl of Derby.—(Received August 7.)

My Lord,

Therapia, July 30, 1874.

MR. KIKBY GREEN has informed your Lordship of the desertion of two of the Ansairiyeh conscripts.

The third, named Daoud Suleiman, has arrived at Constantinople and is serving with one of the regiments quartered here.

The Grand Vizier engages that he shall be in no way molested, and that he shall be perfectly free to practice any religion he pleases.

The substance of your Lordship's despatch No. 14 of the 1st of June on this subject was duly communicated to the Porte.

I have, &c.
(Signed) HENRY ELLIOT.

No. 91.

Lord Tenterden to the Rev. J. Rogers.

Sir,

Foreign Office, August 8, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 31st ultimo respecting the case of the Syrian conscript Salim Dawoud.

I am, &c.
(Signed) TENTERDEN.

No. 92.

Lord Tenterden to the Rev. J. Martin.

Sir, *Foreign Office, August 8, 1874.*
 I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 31st ultimo upon the subject of the persecution to which the Ansairiyeh Christians have been subjected, and I am to inform you that a copy of your letter will be forwarded to his Excellency Sir H. Elliot.

I am, &c.
 (Signed) TENTERDEN.

No. 93.

*Lord Tenterden to the Rev. J. Davis.**

Sir, *Foreign Office, August 8, 1874.*
 WITH reference to previous correspondence on the subject of the persecution to which the Ansairiyeh Christians have been subjected, I am directed by the Earl of Derby to inform you that a despatch has been received from Her Majesty's Ambassador at Constantinople stating that Daoud Suleiman has arrived in that city and is serving with one of the regiments quartered there, and that the Grand Vizier engages that he shall be in no way molested, and that he shall be perfectly free to practise any religion he pleases.

I am, &c.
 (Signed) TENTERDEN.

No. 94.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, August 8, 1874.*
 I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 31st ultimo communicating further intelligence from Damascus and Constantinople respecting the persecution of Christian converts in Syria, and I am to inform you that a copy of your letter has been communicated to Her Majesty's Ambassador at Constantinople.

I am, &c.
 (Signed) TENTERDEN.

No. 95.

The Rev. J. Davis to the Earl of Derby.—(Received August 14.)

My Lord, *Evangelical Alliance, 7, Adam Street, Strand,
 London, August 13, 1874.*

I AM instructed by the Council of this Alliance to acknowledge the receipt of your letter of the 8th instant, and to present to your Lordship their best thanks for your very valuable, and, in part, effectual efforts for the protection of them who have been so wrongly and so cruelly interfered with in their religious privileges.

I am informed that the two Ansairiyeh conscripts who escaped from Damascus, after seventeen days wandering through the mountains, reached their homes on the 12th of July last. It is to be hoped that they will be allowed to remain unmolested and to resume their useful occupations.

May I also solicit your Lordship's continued kind offices on behalf of Mustapha and his family, who still remain in banishment at Smyrna.

I have, &c.
 (Signed) JAMES DAVIS.

* A similar letter was addressed to the Presbyterian Church in Ireland.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, August 15, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your further letter respecting the Ansairiyeh conscripts, and expressing the hope that continued efforts will be made on behalf of Mustapha and his family, and I am to inform you in reply that a copy of your letter will be sent to Sir H. Elliot.

I am, &c.
(Signed) TENTERDEN.

The Rev. J. Davis to the Earl of Derby.—(Received August 28.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, August 27, 1874.*

My Lord,

I AM instructed by the Council of this Alliance to inform you that recent communications have been received from Constantinople on the subject of the religious persecutions, from which, unhappily, the sufferers do not appear to have been relieved.

The Rev. G. F. Herrick desires me, on behalf of the Committee of the Turkish Branch of the Alliance, to express their high appreciation of the interest your Lordship has kindly taken in this matter; and they earnestly solicit a continuance of efforts on the part of Her Majesty's Government until the Moslem converts are set free and made secure in the privileges to which, by Royal edict, they are entitled. The Committee in Constantinople desire me to express to your Lordship their opinion that in the cases both of the Ansairiyeh Christians and of Mustapha and his family the pledges of the Turkish Government have been flagrantly violated; that the rights of those of its subjects who have accepted the Christian faith have been trampled on; and that the protests and remonstrances of Her Majesty's Ambassador have been, on material points, unheeded. They respectfully submit that the principles of religious liberty, which Great Britain is especially expected to defend, requires nothing less than the restoration of Mustapha and his family to all their rights, including their right to live as Christians at Marash, and the discharge of Dawoud, and his return to his own native land, with protection for himself and his Christian companions, and that to demand anything less than this would form a very dangerous precedent.

Relying upon your Lordship's favourable consideration, I have, &c.

(Signed) JAMES DAVIS.

Sir H. Elliot to the Earl of Derby.—(Received August 31.)

My Lord, *Therapia, August 16, 1874*

HAVING received a letter a few days ago from Mr. Beattie, one of the missionaries, expressing his wish to be allowed to see the Ansairiyeh convert soldier, I asked the Grand Vizier whether there would be any objection to his doing so, when His Highness said that Mr. Beattie was perfectly free to see him, and that the Ministry of War should be so instructed.

I informed Mr. Beattie of His Highness's answer, and it was not till afterwards that I learnt that I had made the application on behalf of an American subject, who had no occasion to appeal to Her Majesty's Embassy, instead of to the distinguished Representative of his own Government.

The Grand Vizier told me on this occasion that the man seemed contented, but that, if he or his friends desired it, he might obtain his discharge by providing a substitute, the cost of which would be about a hundred Turkish, or ninety English, pounds.

I have, &c.
(Signed) HENRY ELLIOT.

Sir H. Elliot to the Earl of Derby.—(Received August 31.)

(Extract.)

Therapia, August 16, 1871.

THE letter of the Evangelical Alliance of the July, signed by Mr. Davis, reports the language of the Duc Decazes in reference to their application in reference to what is regarded as the religious persecution going on in Turkey.

In consequence of instructions received from his Excellency, the French Ambassador called upon me last week to say that he had been directed to offer his co-operation in any steps which I might be taking with regard to the cases which had recently occurred.

I told him what had occurred with regard to the convert Mustafa and the Ansairiyeh conscripts, and said that I had urged the Porte to protect them from persecution on the part of the local authorities.

Sir H. Elliot to the Earl of Derby.—(Received August 31.)

My Lord,

Therapia, August 16, 1874.

WITH reference to the convert Mustafa of Marash, I have the honour to inform your Lordship that the Grand Vizier states that he is now left perfectly free, with the exception of not being allowed to return to Marash.

I have not, however, succeeded in getting those of his children who were left at that place sent to join him.

In this respect the Porte might, I believe, plead the example of various European Governments in cases where the parents of children abjure the religion of the State.

There have of late been some bad cases in regard to the treatment of converts, but there is, in my opinion, nothing that can properly be regarded as a general religious persecution, such as might be inferred from the tone of the correspondence of the Evangelical Alliance, which was inclosed in your Lordship's despatch.

The Turkish law sanctions the profession of all religions, but it does not tolerate proselytism, which is undoubtedly the aim of many of the missionaries; and the dislike with which their proceedings are viewed is visited upon their converts.

I have, &c.

(Signed) HENRY ELLIOT.

Mr. Lister to the Rev. J. Davis.

Sir,

Foreign Office, September 1, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your further letter of the 27th ultimo, urging the continued efforts of Her Majesty's Government on behalf of the sufferers from religious persecution in Syria, and I am to inform you, in reply, that a copy of your letter will be forwarded to Her Majesty's Ambassador at Constantinople.

I am, &c.

(Signed) T. V. LISTER.

Sir H. Elliot to the Earl of Derby.—(Received September 11.)

My Lord,

Therapia, September 2, 1874.

WITH reference to my previous despatches about the Ansairiyeh soldier I now forward to your Lordship a further correspondence which I have had with the Rev. Mr. Herrick, who complains that he had been prevented from seeing the man.

At the same time that I declined to press the demand of an American subject, I informed the Rev. Dr. Thompson, the Agent of the Bible Society, who had interested

himself in the case, that, if he wished to see the soldier, I should be ready to assist him if he found any difficulty placed in his way.

It appears that Dr. Thompson subsequently presented himself at the Ministry of War and asked for the man, who was produced without hesitation.

He made no complaint of his treatment, and said that he had a Testament; but the interview took place in the presence of an officer, before whom it is possible that he may have been afraid to speak.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure 1 in No. 102.

The Rev. G. Herrick to Sir H. Elliot.

Your Excellency, *River Hissar, August 21, 1874.*

IN accordance with your direction to inquire at the Seraskeriat for permission to see Daoud Soleyman, and assured by the Grand Vizier, through your Excellency, that such permission would be readily granted, I lost no time in applying as directed.

After several unsuccessful efforts I yesterday saw the lieutenant of His Highness the Seraskier, and inquired where Daoud could be seen. The Pasha affected to know nothing whatever of the man, and said it would be difficult to find him! and, while he treated me in a perfectly courteous manner, and gave, in my presence, an order of inquiry for the man, it was very plain he did not mean business, and that I should not, in this way, obtain an interview with Daoud.

I believe your Excellency will lay some stress, after the declarations and promises made by the Grand Vizier, on the man's being actually seen and his condition ascertained by persons on whose word yourself and the Government and people of Great Britain can rely. Certainly the Committee of the Evangelical Alliance in London, to whom I am just now writing, will insist on knowing how this man is situated.

May I not be pardoned the boldness of asking you to be so kind as to direct a Dragoman of your own to press the inquiry where Daoud is and how he is treated, and secure us an interview with him.

We require to know a little beforehand when and where we can see him, so as to provide ourselves with an interpreter, as Daoud knows only Arabic.

I remain, &c.
(Signed) GEO. F. HERRICK,
Secretary, Evangelical Alliance.

Inclosure 2 in No. 102.

Sir H. Elliot to the Rev. G. Herrick.

Sir, *Therapia, August 22, 1874.*

I HAVE to acknowledge the receipt of your yesterday's letter, respecting the recruit, Daoud Soleyman.

As I had complied with Mr. Beattie's request in ignorance of his being a United States' subject, as I understand you to be yourself, and as there is manifest inconvenience in representations to the Turkish authorities in favour of foreigners going through other channels than that of their own Minister, I shall forward your letter to Mr. Boker, informing him at the same time of the promise which I had received from the Grand Vizier, and of my readiness to co-operate with him in obtaining its fulfilment.

With regard to the remark which you have thought proper to underline, that the Evangelical Alliance will insist upon knowing the position of this man, I must remind you that it rests with Mr. Boker and myself to decide upon the extent to which it may be proper for us to afford unofficial assistance upon a matter in which, as relating to a subject of the Sultan, we are not entitled to interfere.

I am, &c.
(Signed) H. ELLIOT.

The Rev. J. Davis to the Earl of Derby,—(Received September 12.)

Evangelical Alliance, 7, Adam Street, Strand,

My Lord, London, September 11, 1874.

I AM instructed by the Council to forward to your Lordship the following extract from a letter recently received from the Secretary of the Turkish Branch of the Evangelical Alliance in Constantinople:—

"I learned from the dragoman of the American Legation this morning that the Grand Vizier had assured him that if we were now to call at the Ministry of War we should see Dawoud Suliman. Accordingly I went this afternoon, and after a little succeeded in finding him. As he does not speak the Turkish language, I could have no satisfactory interview with him; but I succeeded in finding two Protestant Armenian preachers, one knowing the English and the other Arabic, so with three languages other than Turkish we were able to have a very satisfactory interview with Dawoud in the presence of his officers.

"We found him well and suffering no abusive treatment, beyond a stricter surveillance than that of his comrades. He is known as a Protestant Christian in his regiment, and is not compelled to attend Moslem worship; he has his Testament with him and reads it. He was evidently very much cheered by our visit. We assured him of the sympathy and prayers of many Christian friends in different lands, and reminded him that he has still an opportunity of glorifying God by faithful endurance. He appeared well. It has been promised that he shall be allowed to attend Christian worship on Sunday, and we have provided for his being brought to service, and shall see if the promise is kept. I have been informed to-day that it has been suggested that Dawoud might be bought off from the army for 100*l*. I need hardly remark that this would be a 'lame and impotent conclusion' to what has been, and has still to be demanded."

I am also desired to express the gratification which the Council feel at hearing of this amelioration in the condition and treatment of one of the Ansairiyeh converts, and to thank your Lordship again for the aid rendered by Her Majesty's Government. At the same time I am requested to remind your Lordship that the forced service of Dawoud in the Turkish army is in violation of Turkish law, which exempts from conscription "Christians who pay the tax, teachers, and heads of families," and can only be interpreted as intended to deter others from exercising the right granted by Royal Firman, viz., "every subject shall be allowed the exercise of the religion he professes, and shall be in no way molested on that account."

I beg to add that tidings have not been received respecting the condition of the companions of Dawoud who escaped from the cruelties inflicted upon them at Damascus, and arrived, after seventeen days wandering among the mountains, at their native Province of Lattakia.

The Marash family continue at Smyrna banished from their home, country, and occupation, and separated from their three children for no apparent or alleged reason other than their change of religion. I am, therefore, desired respectfully to suggest that Her Majesty's Ambassador at Constantinople may be instructed to request with urgency, acting with the Representatives of Powers whose co-operation has been warmly promised, that those who have been oppressed may be restored to the enjoyment of the rights and religious privileges secured to them by Royal promise and solemn engagements.

I remain, &c.

(Signed) JAMES DAVIS.

*Mr. Lister to the Rev. J. Davis.**

Sir, Foreign Office, September 12, 1874.

WITH reference to previous correspondence, I am directed by the Earl of Derby to inform you that Her Majesty's Ambassador at Constantinople has been told by the Grand Vizier that Mr. Beattie, the missionary, was perfectly free to visit the converted Ansairiyeh soldier, and that the Ministry of War should be so instructed.

* A similar letter, with the exception of the last paragraph, was addressed to the Presbyterian Church in Ireland.

On the same occasion Sir H. Elliot was informed by the Grand Vizier that the convert seemed contented; but that, if he or his friends desired it, he might obtain his discharge by providing a substitute, the cost of which would be about 100 Turkish, or 90 English, pounds.

With reference to the convert Mustapha of Marash, Her Majesty's Ambassador reports on the authority of the Grand Vizier that he is now left perfectly free, with the exception of not being allowed to return to Marash.

I have, &c.
(Signed) T. V. LISTER.

No. 105.

Dr. Macaulay to the Earl of Derby.

56, Paternoster Row, London, September 11, 1874.

DR. MACAULAY respectfully and earnestly asks Lord Derby's attention to the accompanying letter from Damascus about the Turkish Christian soldiers who are suffering persecution.

The matter seems to be kept back from Sir Henry Bulwer by his subordinates.

Inclosure in No. 105.

Letter from the Rev. W. Wright (returned to Dr. Macaulay).

[See No. 108.]

No. 106.

Mr. Lister to the Rev. J. Davis.

Sir, Foreign Office, September 17, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 11th instant, giving further information respecting the Ansairiyeh conscript Dawoud, and the Marash family, and to inform you that a copy of your letter will be forwarded to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) T. V. LISTER.

No. 107.

The Rev. J. Davis to the Earl of Derby.—(Received September 19.)

My Lord, Evangelical Alliance, 7, Adam Street, Strand,
London, September 17, 1874.

I AM instructed by the Council of this Alliance to acknowledge, with thanks, the receipt of your Lordship's communication of the 12th instant.

On the subject of the missionary interview with the Ansairiyeh conscript, I am desirous to express the satisfaction with which the Council have heard that Dawoud, although forcibly brought to Constantinople, is no longer subject to personal ill-treatment, but is allowed to profess his Christian faith, and also that he has been promised permission to attend Christian worship.

The Council would again call your Lordship's attention to the fact, which appears to have escaped Sir Henry Elliot's notice, that the enforced military service, both of Dawoud and his companions, was from the first illegal, and therefore that in justice to them, as well as in good faith to the nations who seek to protect them, their discharge and permission to return to their homes and former occupation should be effectively urged upon the Turkish Government.

The Council have been pained to learn, from your Lordship's letter, the confirmation of a statement, privately communicated, that an offer had been made, through the British

Ambassador, to obtain the discharge of Dawoud, by a money payment of 90*l*. Such a proposal, the Council are of opinion, cannot, and ought not, to be entertained. The acceptance of the offer would be a surrender of the object most earnestly contended for, viz., the right of every Turkish subject to be protected "in the exercise of the religion that he professes, without being molested therein." And it would further be a settlement by compromise of a cruel and grievous wrong on the part of the Turkish authorities.

I remain, &c.
(Signed) JAMES DAVIS.

No. 108.

Mr. Lister to Dr. Macaulay.

Sir, *Foreign Office, September 22, 1874.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 11th instant, upon the subject of the Turkish Christian soldier who is stated to be suffering persecution; and I am to inform you, in reply, that the case is being carefully watched by Her Majesty's Government and by Her Majesty's Ambassador at Constantinople.

The inclosure in your letter under reply is herewith returned.

I am, &c.
(Signed) T. V. LISTER.

No. 109.

Mr. Lister to the Rev. J. Davis.

Sir, *Foreign Office, September 26, 1874.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 17th instant, on the subject of the Ansairiyeh conscript Daoud, and to inform you that a copy of your letter will be forwarded to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) T. V. LISTER.

No. 110.

Sir H. Elliot to the Earl of Derby.—(Received September 28.)

My Lord, *Therapia, September 10, 1874.*

EVER since the time when the Protestants of this country were accepted as a recognized community, they have complained of not being treated on an equality with the other Christian denominations, notwithstanding all the attempts of my predecessors and myself to support their claims.

Their principal grievances were their exclusion from the Provincial Councils, and the place assigned to their Vekeel, or head, on the occasion of the official reception of the Sultan.

The latter grievance was remedied this year for the first time, as I have already informed your Lordship.

I now learn from their Vekeel that the more important point of their representation on the Councils has likewise been conceded, and he also states with much gratitude that the community is meeting with a consideration never before extended to it.

The change is without doubt attributable to the anxiety which is now apparent at the Porte to act in a manner calculated to gain the sympathy of Her Majesty's Government.

While upon this subject I may state that the Vekeel considers that much of the jealousy with which the native Protestants have been regarded is caused by the indiscreet zeal of the missionaries, whose proselytising tendency creates on the part of the authorities an aversion which has been visited on the whole community.

I have, &c.
(Signed) HENRY ELLIOT.

No. 111.

Sir H. Elliot to the Earl of Derby.—(Received September 28.)

My Lord,

Therapia, September 13, 1874.

MY views on the case of the Ansairiyeh conscripts have been so fully conveyed in my previous reports, that your Lordship will not expect from me any lengthy comments upon the letters of the Evangelical Alliance and of the Rev. Mr. Martin, which form the inclosures of your despatch of the 3rd instant.

I will therefore only touch upon the question of their removal to Constantinople, which I had suggested, but the benefit of which Mr. Martin professes himself unable to perceive.

My motive was very simple. The men were stated to be undergoing at the hands of the military authorities in Syria a cruel persecution which I knew would not be continued at Constantinople under the immediate eye of the Porte and of the foreign embassies, and I have every reason to hope that my expectation has been realized, as no whisper has reached me of maltreatment of the man Daoud since he arrived here.

He was allowed to see the clergymen, and, in consequence of their urgent desire, I obtained the further assurance that no impediment should be put in the way of his attending Divine service, although, as I have since ascertained, there is none performed here in any language that he understands, and the value of the permission granted may, perhaps, be rated less highly than it was when the impression prevailed that it might be refused.

There can at least be no doubt that unless the treatment that Daoud was undergoing in Syria was strangely exaggerated, he has benefited in no small degree by his removal to Constantinople.

I have, &c.

(Signed) HENRY ELLIOT.

No. 112.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, September 30, 1874.

I HAVE to approve the course which your Excellency pursued with reference to the requests of Mr. Herrick and of Dr. Thompson to obtain interviews with the recruit Daoud Solyman, as reported in your despatch of the 2nd instant.

I am, &c.

(Signed) DERBY.

No. 113.

*Mr. Lister to the Rev. J. Davis.**

Sir,

Foreign Office, October 16, 1874.

WITH reference to Lord Tenterden's letter of the 26th September, respecting the case of the Ansairiyeh Christians, I am directed by the Earl of Derby to inform you that Sir H. Elliot in a recent despatch points out, with reference to the question of their removal to Constantinople, that the men were said to be undergoing a cruel persecution in Syria, which could not, in his opinion, be continued at Constantinople under the immediate supervision of the Porte and of the foreign Embassies. His Excellency further states that he has every reason to hope that this expectation has been realised, and that the man Daoud has not been subjected to any maltreatment since he arrived at Constantinople.

I am to add that Daoud has been allowed to see Protestant clergymen, and that at their particular request, Sir H. Elliot obtained the further assurance that no impediment would be put in the way of his attending Divine service.

I am, &c.

(Signed) T. V. LISTER.

* A similar letter was addressed to the Rev. J. Martin.

No. 114.

Consul-General Eldridge to the Earl of Derby.—(Received October 21.)

My Lord,

Aleih, October 6, 1874.

I HAVE the honour to transmit herewith a copy of a despatch, and its inclosures, which I have this day addressed to Her Majesty's Ambassador at the Porte, reporting an order issued in the district of Lattakia to close all schools conducted by foreigners.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure 1 in No. 114.

Consul-General Eldridge to Sir H. Elliot.

Sir,

Aleih, October 6, 1874.

I HAVE the honour to transmit herewith a copy of a despatch which I have received from the British Vice-Consul at Lattakia, reporting that he has received an official communication from the Kaïmakam of the place to the effect that the Sublime Porte has given orders not to allow foreigners to build or to open schools, and to close all schools they may have already opened.

This order seems to me so contrary to the usual liberality and encouragement extended to the efforts of foreigners to educate the subjects of His Majesty the Sultan, that I conceive it must have originated in error or in excess of zeal on the part of the Governor of Lattakia, who may be desirous of closing the schools of the American missionaries in consequence of the action taken with regard to the three Ansairiyehs who were forcibly seized as recruits last year.

Whatever may be the origin and object of this order, I hasten to inform your Excellency of it in order that you may take such steps as you may judge necessary to get it rescinded, and to prevent its being applied to other places like Beyrout, where there exist large educational establishments carried on by foreigners greatly to the advantage of the native population.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure 2 in No. 114.

Vice-Consul Vitali to Consul-General Eldridge.

M. le Consul-Général,

Lattaquié, le 3 Octobre, 1874.

J'AI l'honneur de vous informer qu'en date du $\frac{1}{2}$ Septembre dernier, M. le Caïmakam de Lattaquié m'a adressé une lettre officielle pour m'informer que la Sublime Porte a donné ordre de ne pas permettre aux étrangers de construire ou d'ouvrir des écoles et de fermer toutes les écoles qu'ils pourront avoir ouvertes.

M. le Caïmakam m'ayant formellement prié de lui accuser la réception de sa susdite lettre, je n'ai pas hésité de le faire.

Il serait superflu de commenter cette décision de la Sublime Porte. Il suffit de dire qu'elle est fort nuisible pour le district de Lattaquié, où il n'y a d'autres écoles que celles des missionnaires Américains, sauf une école de l'évêque orthodoxe et l'école "Rachdié."

Dans cette dernière école les étudiants Musulmans sont seulement admis, et elle est entretenue aux frais du Gouvernement.

Je profite, &c.

(Signé) N. VITALI.

(Translation.)

M. le Consul-Général,

Lattakia, October 3, 1874.

I HAVE the honour to inform you, that on the 16th September last, the Kaïmakam of Lattakia addressed an official letter to me, informing me that the Sublime Porte had given orders, prohibiting foreigners from building or opening schools, and ordering them to close all schools which they might have opened.

The Kaïmakam having formally asked for an acknowledgment of the receipt of the above-mentioned letter, I sent him one at once.

It would be superfluous to comment on this decision of the Sublime Porte. It is

sufficient to say, that it is full of harm for the districts of Lattakia, where the only schools are those of American missionaries, except one of the Orthodox Bishop and that of "Rachdié."

In this last school only Mussulman students are admitted; and it is supported at the Government expense.

I profit, &c.
(Signed) N. VITALI.

No. 115.

The Rev. T. Houston, D.D., to the Earl of Derby.—(Received October 23.)

My Lord, *Knockbracken Manse, Belfast, October 22, 1874.*
AS Moderator of the Reformed Presbyterian Synod in Ireland, I take leave to solicit your attention to the following brief statement and request.

From various representations which have already been presented to you by memorials and deputations from several public bodies, your Lordship has been made acquainted with the case of the three Christian converts connected with the Mission at Lattakia, in Syria, who were forcibly taken from their families, and enrolled in the Turkish army. Your interference on their behalf has hitherto been disregarded by the Turkish authorities; and one of these converts, who was some time ago removed to Constantinople, is still denied the Christian liberty which has been justly claimed for him, and is subject to indignity and maltreatment.

I may mention, as the ground of my addressing your Lordship in this case, that the Mission in Syria, with which these Ansairiyeh converts are connected, is carried on conjointly by the two Synods of the Reformed Presbyterian Church in Ireland and Scotland, in co-operation with the Synod of the same Church in the United States of America; and that the whole members of this ecclesiastical community take the deepest interest in these oppressed converts—these brethren in the faith of Christ, and regard themselves bound to employ every legitimate means to effect their enlargement.

The Commission of our Synod having lately appointed a Deputation to wait on your Lordship, in conjunction with a like Deputation from the Synod of brethren in Scotland, who will, we expect, be accompanied by Members of Parliament, and other gentlemen, from Ireland and Scotland, I take the liberty of requesting that you will have the goodness to receive such a Deputation, and that you will be pleased to inform me at what time it will be convenient for you to admit them to an audience.

I have, &c.
(Signed) THOMAS HOUSTON, D.D., Moderator.

No. 116.

The Revs. W. Magill and J. Rogers to the Earl of Derby.—(Received October 30.)

My Lord, *Cork, October 27, 1874.*
WE had the honour to receive in due course a communication from the Foreign Office, of date September the 12th, in reference to the condition of the Ansairiyeh soldier at present in Constantinople.

From that communication we learned:—

(1.) That the Grand Vizier had stated to Her Majesty's Ambassador at Constantinople, that Mr. Beattie, the missionary, was perfectly free to visit the convert, and that the Minister of War should be so instructed.

(2.) That Sir Henry Elliot was informed that the convert seemed contented.

(3.) But that if he or his friends desired it, the discharge of the convert could be obtained by providing a substitute at a cost of one hundred Turkish, or ninety English pounds.

With reference to this and other correspondence on this subject, will your Lordship permit us to make the following statement? Premising that the Foreign Office must have access to sources of information in relation to the matter not enjoyed by others, we do so with great deference, but we beg respectfully to place before your Lordship the state of affairs as reported to our Board on what appears to us good authority, to wit, that of the Rev. Dr. Thompson, of the Church of Scotland at Constantinople.

(1.) That Mr. Beattie (the convert's own pastor) though several weeks in Constantinople was never permitted to see Dawoud. We doubt not for a moment that the promise

to Her Majesty's Ambassador was given, but the permission did not arrive till after Mr. Beattie had left for his home at Lattakia. Acting on the too-late concession extended to Mr. Beattie, the Rev. George F. Herrick called at the Seraskierate, "but was informed that nothing had been heard there of any such person" (as the convert), and that it might be a very difficult task to discover any such individual among the multitude of soldiers around, and that nothing could be done without orders from head-quarters.

After some time, Mr. Herrick, having called again, saw the convert, but was informed by the guard that they had no authority to permit Dawoud to attend divine worship; and so the visit ended.

On the 26th August, the Rev. Dr. Thompson, already referred to, called at the Seraskierate for the purpose of seeing Dawoud Suleiman. Wishing to present him with a copy of an Arabic Bible, "he was peremptorily informed that he could not be allowed to do so," and, that "having no authority on the subject, the officials could not permit the soldier to attend Protestant worship." This appears to us somewhat perplexing, inasmuch as in a communication dated August 8th, forwarded to us by your Lordship's direction, there occurs the following passage:—"A despatch has been received from Her Majesty's Ambassador at Constantinople, stating that Dawoud Suleiman has arrived in that city, and is serving with one of the regiments quartered there, and that the Grand Vizier engages that he shall be in no way molested, and that he shall be perfectly free to practise any religion he pleases."

(2.) As to Suleiman being contented, it appears to us to be difficult to get at his state of mind, seeing that he is not allowed at any interview to speak to a visitor unless in the presence of Turkish officials.

What his feelings are, however, may in some measure be gathered from a letter of his, which he fortunately got transmitted to us. Take this extract:—

"I hope that every Christian reader will remember me in his prayers to the holy God in whose hands are the hearts of kings and governors, and who searcheth the hearts and reins; and I pray to the Most High to give me patience."

(3.) As to the proposal of Turkey to liberate the soldier on condition that a substitute be provided at a cost of 100*l.*, we believe that the convert, "being free-born," would not consent to purchase his freedom, and we respectfully submit that the proposal is offensive to the religious instincts of Christendom and is an insult to the nations who, parties to a well-known contract that secures religious liberty to the subjects of the Porte, are not likely to suffer its violation much longer. May we respectfully but firmly express the hope that England will take the initiative in presenting such a remonstrance in the proper quarter as may not be disregarded.

The question is not now whether Christians are liable to conscription, but the point is, that these men were arrested for being converts and that Dawoud, contrary to law, is undergoing penal servitude in the army for holding firm by his profession of Christianity.

Let us here remind your Lordship of the Proclamation of the Sultan formally recognized by the Contracting Powers on the 30th March, 1856, and signed by the Representatives of England, France, and Austria on the one side, and the Ottoman Ministers and a Greek Prince on the other, viz., "As all forms of religion are and shall be freely professed in my dominions, no subject of my Empire shall be hindered in the exercise of the religion he professes nor shall he be in any way annoyed on this account. In the matter of changing one's religion no force shall be employed, &c."

We have only to add that intelligence has reached us that a despatch from Constantinople has been forwarded to Lattakia ordering that the mission schools in the district be all closed.

We have, &c.

(Signed)

WILLIAM MAGILL, *Moderator, General Assembly of the Presbyterian Church in Ireland.*

JOHN ROGERS, *Convener, Jewish Mission of the Presbyterian Church in Ireland.*

No. 117.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, November 4, 1874.

I TRANSMIT to your Excellency a copy of a further letter from the Moderator of the Presbyterian Church in Ireland respecting the treatment of the Ansairiyeh soldiers detained at Constantinople,* and I have to draw your especial attention to that portion

* No. 116.

of the letter according to which it would appear that the promise given by the Turkish authorities has not been kept.

I am, &c.
(Signed) DERBY.

No. 118.

The Rev. J. Davis to the Earl of Derby.—(Received November 7.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, November 7, 1874.*

My Lord,

I AM desired by the Council of this Alliance to thank your Lordship for letter dated the 16th ultimo, and to inform you that, respecting that portion of Sir Henry Elliot's despatch pointing out that the removal of the Ansairiyeh Christians to Constantinople was intended for their protection, in consequence of the alleged cruel persecution from which they were suffering in Syria, the Council instruct me to say that the statement is quite inconsistent with the communications received by them from the district in which these men were leading peaceful and useful lives. Those communications were to the effect that, when first seized and removed to Damascus, there was not any ferment or disturbance on the part of the native population, and that the sufferings these men endured arose entirely from their treatment by the local magistrates, who do not appear, up to the present time, to have been punished, or were censured, for such a flagrant abuse of authority.

The Council desire again to call your Lordship's attention to the continued banishment to Smyrna of the Marash Christians, and separation from their family, notwithstanding the remonstrance made by Sir Henry Elliot against this act of manifest injustice on the part of the Turkish authorities.

The Council would also bring before your Lordship's notice that about the time the announcement arrived by telegram in this country that it had been officially stated to the British Ambassador that "the privileges and protection accorded to all religions by the Firman of 1856 will be strictly maintained," information both public and private was being received that orders from Constantinople had been issued "for the suppression of all Protestant schools in Syria, and that the building of a Protestant school at Jaffa had been stopped." The Council venture to hope that, if Her Majesty's Government have received any official information, either confirming, modifying, or contradicting this statement, they will find it consistent with their duty to make it publicly known.

The Council are under the painful necessity of expressing their fears, founded upon the failure of the representations hitherto made to the Turkish Government, and upon the communications received at various times from the several Committees of this Alliance, that unless firmer and more effective remonstrances are made at Constantinople by the representatives of those Christian Powers to whom the Firman was communicated, not only will that Imperial edict, obtained at much cost, become a dead letter, but Christian efforts, however prudently and beneficially exerted, will be excluded from that land.

I beg, on behalf of the Council, again to thank your Lordship for the services rendered in the cause of religious liberty, and respectfully to entreat for it, in the interests of humanity, of civilization, and of national honour, the continued attention of Her Majesty's Government.

I remain, &c.
(Signed) JAMES DAVIS.

No. 119.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, November 10, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 7th instant, respecting the present position of the Ansairiyeh Christians, a copy of which will, by his Lordship's directions, be sent to Her Majesty's Ambassador at Constantinople, for such steps as he may think advisable to take in the matter.

I am, &c.
(Signed) TENTERDEN.

No. 120.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, November 10, 1874:

I TRANSMIT to your Excellency, for such steps as you may think proper to take, a copy of a further letter from the Evangelical Alliance respecting the present position of the Ansairiyeh Christians.

I am, &c.
(Signed) DERBY.

No. 120.*

*Mrs. Pringle to the Earl of Derby.—(Received November 10.)**Blainslie, Cambridge Road, Gunnersbury, W.,**November 9, 1874.*

My Lord,

CAN you inform me as to the truth or otherwise of a report, mentioned in some of the newspapers, to the effect that the Governor of Syria has suppressed all the Protestant schools in the Province and stopped the building of the Jaffa school.

Two daughters of the late Dr. Walker-Arnott, of Glasgow University, having for some 18 years had a Protestant school at Jaffa, their family are extremely anxious on their account, and will be glad to know the real state of affairs.

Yours faithfully,
(Signed) G. PRINGLE.

No. 121.

Lord Tenterden to Mrs. G. Pringle.

Madam,

Foreign Office, November 14, 1874.

I AM directed by the Earl of Derby to acknowledge receipt of your letter of the 9th instant, and to inform you in reply that Her Majesty's Consul-General in Syria reports that the schools in the Province of Lattakia have been closed by order of the Kaimakam of that district, but no information has been received with respect to the extension of this order to other places.

I am to add that Her Majesty's Ambassador at Constantinople has already made a representation to the Porte on the subject.

I am, &c.
(Signed) TENTERDEN.

No. 122.

*The Rev. J. Davis to the Earl of Derby.—(Received November 19.)**Evangelical Alliance, 7, Adam Street, Strand,**London, November 18, 1874.*

My Lord,

BY request of Lord Ebury I have the pleasure of enclosing your Lordship the accompanying copies of address to the Sultan, about to be taken by a deputation from this Alliance to Constantinople.

I remain, &c.
(Signed) JAMES DAVIS.

Inclosure in No. 122.

*Proposed Address to the Sultan on the subject of Religious Persecutions in Turkey.**To His Imperial Majesty the Sultan Abdul Aziz.*

May it please your Majesty,

THE undersigned Memorialists, members of different nationalities, and of various Christian Churches united in the Evangelical Alliance by the bonds of a common faith, approach your Majesty with the expression of their highest respect.

They gratefully acknowledge the valuable concessions made to the cause of civil and religious liberty, which have shown the enlightened sentiments of your Imperial Government. They refer especially with much satisfaction, to a declaration made on a former occasion to the representative of Great Britain, that "henceforward neither shall Christianity be insulted in my dominions, nor shall Christians be in any way persecuted for their religion;" and to the subsequent Hatti-Sheriff, declaring that "no subject of His Majesty the Sultan shall be hindered in the exercise of the religion that he professes, nor shall he in any way be molested on that account."

Your Memorialists have learned, however, with feelings of deep regret, that in some recent instances your Majesty's benevolent intentions have been frustrated; and that, contrary to the engagement entered into with several European Governments, the adoption of the Christian faith by some of your Majesty's subjects has been visited with cruel persecution on the part of certain Provincial Magistrates, who have thus acted in opposition to your Majesty's righteous and benevolent declarations.

They allude to the cases already brought before your Majesty's Government.

Three Ansairiyeh converts to Christianity, who had been living peaceable and blameless lives as teachers in a Christian Mission School, were in September last suddenly seized, put in chains, and, after being denied food and drink, marched to Jebili, and thence to Damascus, where they were thrown into prison, and have been (we are credibly informed) repeatedly beaten, reviled, and otherwise shamefully treated. No crime or offence against the law was brought against them, but on their refusal to abjure the Christian faith they were enrolled in the Turkish army, and refused the exercise of Christian worship.

Your Memorialists are informed that, in consequence of representations made on behalf of these converts, orders have been given for their removal to Constantinople; but such removal whilst affording, possibly, some amelioration to their sad condition, would nevertheless involve banishment from their homes and families, and from the honourable employments in which they were engaged.

Another case is that of a father and son, who, because they avowed themselves Christians, were taken by the police from their homes at Marash, bound, and brought under a strong guard to Aleppo, from whence they were subsequently removed to Constantinople, and put in prison. They have since, with the wife of the elder one, been banished to Smyrna; their three children, contrary to the wish of their parents, having been placed in a Moslem family, whose religious opinions are utterly opposed to their own convictions.

Your Memorialists are well aware of the numerous difficulties which your Majesty has to encounter in giving effect to the pledges of religious liberty so generously accorded a few years since. But they feel constrained to submit to your Majesty's notice that the persecution of individuals for exercising their personal right to believe and worship according to their own free conscience, is both a violation of Treaty engagements, and at variance with the enlightened sentiments of civilized nations.

Assured of your Majesty's gracious disposition, your Memorialists humbly, but earnestly, entreat that prompt and effective measures may be taken to redress the wrongs inflicted on your Majesty's Christian and loyal subjects, as above mentioned; that they may be recalled from banishment and restored to their homes and useful occupations; and that the officers of your Majesty's Government, in the provinces and elsewhere, may be charged to preserve free from molestation, and secure in the enjoyment of their religious privileges, any individuals whomsoever, professing Christianity, over whom, by your Majesty's appointment, they exercise authority.

(Signatures to follow.)

Dear Sir,

Elmley House, Wimbledon, September 11, 1874.

I hasten to acknowledge your letter of the 1st instant, which only came to my hands this morning.

It seems to me that the proposed Address to the Sultan, of which you kindly sent me a copy, is reasonable, well timed, and much needed. I wish it success with all my heart.

Yours sincerely,
(Signed) STRATFORD DE REDCLIFFE.

To the Rev. J. Davis,
Secretary to the Evangelical Alliance.

No. 123.

*The Rev. J. Davis to the Earl of Derby.—(Received November 20.)**Evangelical Alliance, 7, Adam Street, Strand,
London, November 19, 1874.*

My Lord,

I AM instructed by the British Council of this Alliance to inform your Lordship that, in addition to efforts which they have already made on behalf of persecuted Christians in Turkey, and in which they have been so kindly aided by Her Majesty's Government, it is proposed to present an address to the Sultan, a printed copy of which I have the honour to inclose.

The Council, under ordinary circumstances, would request the favour of your Lordship conveying the document, suitably prepared for His Imperial Majesty, through the usual channel, but, acting under advice, they deem it highly desirable that, in this case, it should be taken and presented by a deputation specially appointed for the purpose, provided, however, this step meet with your Lordship's approval, and also that your Lordship oblige them by instructing Her Majesty's Ambassador to solicit an audience with the Sultan for the deputation, and accompany it, if granted.

Your Lordship will doubtless notice the international character of the address, and the high influential position both of those who sign it on behalf of the Alliance, and of those who support the Petition.

The following gentlemen, jointly with the Secretary, have been invited to form the deputation: The Earl of Cavan, the Earl of Aberdeen, Samuel Gurney, Esq., James Spicer, Esq., Jabez Johnson, Esq., and the Reverend J. S. Blackwood, D.D., L.L.D.

As it is desirable that they should leave England not later than the next or following week, I would, on behalf of the Council, solicit the favour of your Lordship making any communications that may be necessary with Constantinople by telegram, in order that, if the replies be favourable, the deputation may proceed without delay.

I have, &c.

(Signed) JAMES DAVIS.

Inclosure in No. 123.*Proposed Address to the Sultan on the subject of Religious Persecutions in Turkey.*[See Inclosure in No. 122.]

No. 124.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, November 21, 1874.

I AM directed by the Earl of Derby to request that you will inform the Committee of the Evangelical Alliance that, in compliance with the request contained in your letter of the 19th instant, Her Majesty's Ambassador at Constantinople has been instructed by telegraph to report whether an audience of the Sultan can be procured for the deputation to be sent to Constantinople to present the Address to His Majesty; and I am to request that you will instruct your Agent at Constantinople by telegraph to furnish his Excellency with a copy of the Address which it is proposed to present.

I am, &c.

(Signed) TENTERDEN.

No. 125.

*The Rev. J. Davis to the Earl of Derby.—(Received November 24.)**Evangelical Alliance, 7, Adam Street Strand,
London, November 23, 1874.*

My Lord,

I HAVE the honour to acknowledge receipt of your Lordship's letter of the 21st instant, and in reply beg to inform you that, agreeably to your Lordship's request,

I telegraphed to our Representative at Constantinople, instructing him immediately to hand to Her Majesty's Ambassador a copy of the Address for presentation to the Sultan by the proposed deputation.

I have, &c.
(Signed) JAMES DAVIS.

No. 126.

Aarifi Psha to Musurus Pasha.—(Communicated to the Earl of Derby by Musurus Pasha, November 24.)

(Télégraphique.)

Constantinople, le 24 Novembre, 1874.

SIR HENRY ELLIOT vient de recevoir de Lord Derby un télégramme par lequel, en l'informant que l'Alliance Evangélique va envoyer à Constantinople une députation chargée de présenter à notre Souverain une adresse concernant la prétendue persécution religieuse en Turquie, le Chef du Foreign Office exprime le désir de savoir si cette députation sera reçue par Sa Majesté.

Ce dernier point dépend de la volonté de Sa Majesté, qui en décidera en temps et lieu; nous ne pouvons donc rien dire dès à présent. Quant à l'objet de la mission, il échappe à notre intelligence. La liberté de conscience est et demeurera pleine et entière dans l'Empire. Ce n'est pas une députation comme celle dont il s'agit qui changera rien à la situation; le Gouvernement Impérial ne se départira jamais de la ligne de conduite éminemment libérale qu'il s'est tracée à l'égard des divers cultes qui sont professés en Turquie.

Veuillez bien vous exprimer à sa Seigneurie dans ce sens.

(Translation.)

(Telegraphic.)

Constantinople, November 24, 1874.

SIR HENRY ELLIOT has just received a telegram from Lord Derby, in which his Lordship informs him that the Evangelical Alliance are going to send a deputation to Constantinople, charged to present an address to our Sovereign relative to the alleged religious persecution in Turkey, and the Chief of the Foreign Office expresses his desire to know if this deputation will be received by His Majesty.

This last point depends on the will of His Majesty, who will decide at the proper time; at present, therefore, we can give no answer. As to the object of the Mission it passes our comprehension. Liberty of conscience is now, and will remain, full and entire in the Empire. It is not by means of a deputation like this that any change will be brought about; the Imperial Government will never diverge from the eminently liberal line of conduct which it has laid down for itself respecting the various kinds of religion professed in Turkey.

Have the goodness to express yourself in this sense to his Lordship.

No. 127.

Vice-Consul Green to the Earl of Derby.—(Received November 25.)

My Lord,

Damascus, November 10, 1874.

I HAVE the honour to transmit herewith, for your Lordship's information, the copy of a despatch addressed this day by me to Sir Henry Elliot, reporting to his Excellency the arrival in Damascus from Lattakia and Beyrout, as military prisoners, of five Ansairiyeh Christians, and the enlightened and liberal manner in which his Highness Essad Pasha has expressed himself concerning their treatment.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 127.

Vice-Consul Green to Sir H. Elliot.

Sir,

Damascus, November 10, 1874.

I HAVE the honour to report that on the 3rd instant notice was sent to me that a number of Ansairiyeh Christians had arrived at Damascus from Lattakia and Beyrout

as military prisoners, and Mr. Selim Meshaka, one of the dragomans of this Consulate, in compliance with a supplication from them, succeeded in seeing them.

The prisoners are five in number, and are named Halil Hassan, Ibrahim Khalify, Assad Kanaan, Selim Khalify, and Iusef Jedid. The two last are the Ansairiyeh Christian soldiers whose desertion from their regiments I reported to your Excellency in my despatch of the 28th July last.

The prisoners complained to Mr. Meshaka that they had been treated with considerable harshness, and had not been provided with rations since their arrival in Damascus, and they urged him to beg me to endeavour to obtain for them some alleviation from their present state.

I have not thought it right to take any direct official steps on behalf of these men, as I am unacquainted with the details of their arrest at Lattakia, and as they will, no doubt, ultimately share in any favours that your Excellency may obtain for their companion Suleiman Daoud who is now serving in a regiment at Constantinople; but, an opportunity having arisen, I was able to ask Essad Pasha to give orders that these men should be treated in the same manner as other military prisoners.

His Highness said that he had not heard before of the arrival of the men in Damascus, and he regretted that undue importance should have been given to their case by their being sent here under an escort of twenty-five soldiers, when two guards would have been sufficient. He promised to inquire into the whole matter, and he foresaw no difficulty in having all the Ansairiyeh Christians attached to the Dragoon Regiment, which is composed of men of all religions. In any event his Highness would be careful to see that these men should not be treated in an exceptional manner, and that they should have full liberty to follow the precepts of their religious faith.

I have, &c.

(Signed) W. KIRBY GREEN.

No. 128.

The Earl of Shaftesbury to the Earl of Derby.—(Received November 25.)

Dear Lord Derby,

London, November 20, 1874.

MAY I ask you to look at the Memorial, a copy of which is inclosed, addressed by the Bible Society to the Ambassador at Constantinople.

I inclose also a copy of my letter to Sir H. G. Elliot.

May we ask your aid in this matter whenever it shall come under your notice? Your predecessor, Earl Russell, on a similar occasion gave me very effectual assistance.

Yours truly,

(Signed) SHAFTESBURY.

Inclosure in No. 128.

The Earl of Shaftesbury to Sir H. Elliot.

Sir,

London, November 20, 1874.

MAY I take the liberty of placing before you a Memorial from the President and Committee of the British and Foreign Bible Society?

The only link that binds the people of England to the maintenance of the Turkish Empire is the belief that the Ottoman Porte is favourable to religious liberty.

A departure from this feeling would irrecoverably separate the two nations.

We believe, moreover, that we have rights by Treaty to the privilege we claim.

I very respectfully request the countenance and aid of your Excellency on our behalf.

Your obedient servant,

(Signed) SHAFTESBURY.

No. 129.

*The Rev. E. Hutchinson to Mr. Sanderson.—(Received November 27.)**Church Missionary House, Salisbury Square,
November 25, 1874.*

Sir,

WITH reference to my interview with you to-day on the subject of religious intolerance in Turkey, I have the pleasure to inclose proof copies of the Memorial and statement on the subject, and shall be glad to know whether anything has transpired to remove the necessity for the Memorial.

I am, &c.

(Signed) EDW. HUTCHINSON,
Secretary, Church Missionary Society.

Inclosure 1 in No. 129.

Memorial.

To the Right Honourable the Earl of Derby, Her Majesty's Secretary of State for Foreign Affairs.

The Memorial of the Right Honourable the President and the Committee of the Church Missionary Society.

YOUR Memorialists would respectfully submit, for your Lordship's consideration, that when, in 1856, the Sultan of Turkey conceded the Hatti-Humayoun, they were encouraged to extend their operations in the Ottoman Empire. Knowing as they did that this charter of religious liberty had been granted at the urgent requisition of England and France, in consideration of the enormous sacrifices these Christian Powers had made in support of the Sultan's Empire, your Memorialists had full reliance that the diplomatic engagements entered into by Turkey would be respected; and although they have since been compelled in some cases to complain of the violent and arbitrary proceedings of Turkish officials, your Memorialists would acknowledge with thankfulness that your Lordship's predecessors in office have intervened with such good effect, that not only redress has been afforded to those who have suffered religious persecution, but as in the case referred to in the Foreign Office despatch, dated December, 15, 1864, the Turkish Government were called upon to give fresh assurances that religious freedom should not hereafter be assailed or restricted.

Your Memorialists are sorry to be obliged to solicit once again intervention in their behalf. In furtherance of the work in which the Church Missionary Society is engaged, it has been their practice, not only in the Ottoman Empire, but in other parts of the world, to establish schools, which are open to those who are willing to attend. Several schools have in this way been established by them in Palestine, and carried on for some years, not only without opposition of any kind, but to the marked satisfaction of the people, who frequently beg the missionaries to open fresh schools. In accordance with a request of this nature, a school has been recently opened by the Church Missionary Society at Acco, and your Memorialists have now to complain that this has been suddenly closed in an arbitrary manner by order of the Turkish Governor-General of Syria. It is the first time that the Turkish Government has closed a school in Palestine, and as to the plea advanced that it should not have been opened without official permission, it is sufficient to state that such permission has not been considered necessary either in the case of schools opened by other denominations in Syria, or of those belonging to the Church Missionary Society. It may be added, that the opening of the new school at Acco had the concurrence of the Protestant Bishop of Jerusalem.

Your Memorialists would further submit, for your Lordship's consideration, that this is no isolated case of unwarrantable interference with the work carried on by Protestant missionaries in Turkey; for, as your Lordship has been informed through other channels, three Protestant teachers of a school at Lattakia were suddenly seized, subjected to ill-treatment, and on their refusal to abjure the Christian faith, were forcibly enrolled in the Turkish army, although by the rules in force in the Ottoman Empire they were not liable to military service, having paid the regular tax in lieu of service, and further, as teachers, having a claim to exemption. If under these circumstances Greek and Latin

Christians are not considered liable to military service, it is not unreasonable to ask why Protestant teachers of schools should be dealt with in an exceptional manner.

Again, your Memorialists would refer to another case, in which a man named Mustapha, of Marash, his wife and son, have been imprisoned in consequence of their profession of Christianity, and when eventually released, they have not been allowed to return home, but have been placed under surveillance at Smyrna; meanwhile Mustapha's three younger children are kept at Marash in a Mohammedan family, and compelled to attend a Mohammedan school.

It is true that the sufferers referred to here are members of congregations to which American missionaries minister, still on this account they are not the less entitled to support and sympathy, and your Memorialists would urge, that if the Turkish officials find that they persecute with impunity those who have embraced the Protestant faith in one part of the Empire, they will not be slow to adopt the same policy towards those converts in whom your Memorialists are more directly interested. Indeed, indications of such a policy are apparent in the closing of the school at Acco, and also in the hindrances which are now put for the first time in the way of printing the Turkish Scriptures. On this subject, the Rev. Robert Wheately, a missionary of the Church Missionary Society, writes as follows:—"With regard to the printing of the Turkish Scriptures, we are told, after ten years of unquestioned liberty to print Scriptures and books concerning the Scriptures, that a special license is necessary."

Your Memorialists would respectfully but very earnestly represent that all the acts referred to above are in direct violation of the very letter, as well as of the spirit of the Hatti-Humayoun, and of the diplomatic engagements into which the Porte has entered with Great Britain. In a despatch dated January 9, 1856, to Lord Clarendon, Lord Stratford de Redcliffe wrote as follows on the advantages which would follow on the adoption by the Turkish Government of a more enlightened policy in place of the traditional exclusiveness which had heretofore characterized the administration of the Ottoman Empire:—

"We all in turn expressed a desire to bring the various classes of the Sultan's subjects into harmony and confidence with each other, as a source of prosperity to the Empire, whose Government would find its advantage, both internally and externally, in acting no longer on the principles of religious exclusiveness or predominance of race, but on those broader, sounder maxims which have only to be carried out with perseverance in order to produce a full measure of national unity and strength."

Your Memorialists therefore conceive that in protesting against the reactionary policy which the Turkish Government have thought fit to adopt, they are consulting the best interests of the Turkish Empire, while at the same time it is obvious that without religious liberty the work in which your Memorialists are engaged cannot but be seriously hindered and impeded.

By order of the Committee,

(Signed) CHICHESTER, *President.*

C. C. FENN,

HENRY WRIGHT,

EDWARD HUTCHINSON,

EDWARD LAKE,

} *Secretaries.*

Church Missionary House, November 18, 1874.

Inclosure 2 in No. 129.

Statement respecting Religious Persecution in Turkey.

WHEN, in consequence of the vigorous and persistent representations of the British Government and other Christian Powers in Europe, the Sultan of Turkey conceded, in 1856, the Hatti-Humayoun, by which the religious liberties of all his subjects were guaranteed, without distinction of creed, a strong party in the State opposed the concession, and have since endeavoured, again and again, to render nugatory the provisions of this charter of religious liberty. A memorable instance of this occurred in July 1864, when the agents of the Turkish Government suddenly invaded, at Constantinople, the hired rooms of missionaries, seized their books, and imprisoned nine of the persons who were found at the time in these rooms. An energetic remonstrance of the British Government effected, after some delay, the release of these prisoners, and Earl Russell, in a despatch dated December 15, 1864, took occasion to ask for fresh assurances from

the Turkish Government that religious freedom should not, in future, be assailed or restricted, expressing himself in the following terms :—

“I am willing, for my part, now that the Turkish converts, though not restored to Constantinople, have been set at liberty, to concur with the Society for the Propagation of the Gospel in opinion that it would be useless and unadvisable to seek redress for past wrongs. But I must ask assurance for the future ; and if, in reply, I am to be told that the reference to the Hatti-Humayoun in the Treaty of 1856, and the promises made to Lord Stratford de Redcliffe, have no practical value, and that neither missionaries nor converts can derive any protection from these documents, I am convinced that the feelings of the English nation towards Turkey will be seriously affected, and their disposition to defend the integrity of the Turkish Empire much abated. But, in fact, the Turkish Government do not take their stand on any such grounds. Aali Pasha has, by his last despatch, admitted the right of Her Majesty's Government to inquire and make representations on such matters, and he has accounted, or attempted to account, to Her Majesty's Government for the late violent proceedings of the Sultan's Government, by stating the apprehensions which the Porte felt that the peace of the capital might be disturbed ; indeed, it cannot be denied that, in extraordinary emergencies, a Government is bound to provide for the public tranquility by measures which, at the moment, may be harsh and unusual. I must, however, desire you to obtain from Aali Pasha assurances that religious freedom will not hereafter be assailed or restricted by the Turkish Government. Doubtless the Government of the Sultan will take precautions for the preservation of the civil peace ; but such precautions are quite compatible with religious freedom.”

The Committee of the Church Missionary Society are in receipt of communications from missionaries labouring in connection with them in the Ottoman Empire, by which it is clear that the Turkish authorities have recently adopted measures of a reactionary character altogether opposed to the policy urged by Earl Russell* in 1864, and the pledges given in the Hatti-Humayoun in 1856, when it was declared that “no subject of His Majesty the Sultan shall be hindered in the exercise of the religion he professes, nor shall he be in any way molested on this account.”

From the correspondence which passed at the time, it would be easy to multiply extracts showing that the terms and spirit of the diplomatic engagements into which the Porte then entered, guaranteed to the Christian convert from Mohammedanism, or other creed, that he should not in any way be molested ; and at the same time guaranteed to Christian missionaries the reasonable and peaceable exercise of their office. On this point Lord Clarendon (in May, 1855) then Secretary of State, thus expressed himself :—

“Furthermore, Her Majesty's Government considers that there should not only be complete toleration of non-Mussulman religion, but that all punishment on converts from Islamism, whether natives or foreigners, ought to be abolished.”

In violation of these engagements it would appear, by a recent communication received from the Rev. John Zeller, who, since 1857, has laboured at Nazareth and in that neighbourhood, he reports that a Protestant school he had recently opened at Acco had been closed by the orders of the Governor-General of Syria. Further, the Rev. Robert Weakley, who is engaged at Constantinople in a revision of the Turkish translation of the Scriptures, gives a detailed account of several cases of persecution. In one case three Protestant teachers of schools, formerly belonging to the Ansairiyeh sect, were suddenly seized and ill-treated, and on their refusal to abjure the Christian faith, were forcibly enrolled in the Turkish army, although, by the rules in force in the Ottoman Empire, they were not liable to military service. In another case a man named Mustapha, of Marash, with his wife and son, have been imprisoned in consequence of their profession of Christianity, and when eventually released, they have not been allowed to return home, but have been placed under surveillance at Smyrna ; meanwhile, Mustapha's three younger children are kept at Marash, in a Mohammedan family, and compelled to attend a Mohammedan school. Mr. Weakley also reports that the printing of the Turkish Scriptures has been for some time suspended.

Extracts from Mr. Zeller's and Mr. Weakley's letters are given below, in which fuller information is given regarding all the cases referred to above, and regarding the reactionary policy the Turkish authorities have now put in force.

* Lord Russell's predecessors in the Foreign Office advocated the same policy, for in May, 1855, when Lord Clarendon was Secretary of State for Foreign Affairs, he thus expressed himself :—“Furthermore, Her Majesty's Government consider that there should not only be complete toleration of non-Mussulman religion, but that all punishment on converts from Islamism, whether natives or foreigners, ought to be abolished.”

Extract from a Letter dated Nazareth, September 7, 1874, from the Rev. John Zeller, addressed to the Secretary of the Church Missionary Society.

I have just time by this post to inform you that the Pasha of Acco has closed our school there, on the plea that a special permission from the higher authorities was necessary. I beg to inclose a copy of a letter I have written to our Consul-General on this subject, from which you will see the particulars. It is the first time that the Turkish Government has closed a school in Palestine; it causes, therefore, a good deal of sensation, and the consequences of this act will be serious for all Protestants in Galilee, and greatly hinder the preaching of the gospel. This is especially the case at Acco, where now any opposition against our native teacher is invested with the sanction of the Government. As I am not sure whether Mr. Eldridge will be able to prevail on the Consul-General of Damascus to issue a counter-order, I would beg you to write to Her Majesty's Embassy at Constantinople to procure orders for the non-interference with our school at Acco and at other places.

On a recent visit at Acco I examined our school, and was much pleased with the progress of the children and with the interest which many people seemed to take in our work.

Copy of a Letter dated Nazareth, September 7, 1874, addressed by the Rev. John Zeller to G. Jackson Eldridge, Esq., Her Britannic Majesty's Consul-General at Beyrout.

Sir

Nazareth, September 7, 1874.

In a note from Acca I had the honour to inform you that the Mouteseriff of Acco ordered me to close the school which the Church Missionary Society had opened there.

On the 3rd instant the Mouteseriff read to me two orders from his Excellency the Governor-General of Syria. The first, sent by telegraph, was to the effect that it had come to the ears of the authorities at Damascus that the English had begun the building of a church and school at Nazareth without permission from the Government; their building had therefore to be stopped at once. The second order stated that, as it had been reported that English schools had been opened in the Hauran and at Nazareth without the permission from the Government, these schools had to be closed without delay.

I represented to the Mouteseriff that, as the Church Missionary Society had neither opened any school in the Hauran, nor was at present building a church or school at Nazareth—for the building there belongs to another Society—these orders could not refer to the work of the Church Missionary Society. This Society had obtained two Firmans from His Majesty the Sultan for their churches, which were entered in the Government registers at Acco and Damascus, and a list of the schools connected with these churches had twice been sent by me through the Kaïmakam of Nazareth to the higher authorities.

The Mouteseriff seemed not to be aware of these facts, and even refused to give me a copy of the orders he had read to me. He said he could not permit the continuance of the school at Acco without express orders from the Wali of Damascus.

Though the building of schools may require special permission, I have hitherto not been aware that the opening of a day-school in a hired room would require a Firman.

In the Firman of the Bishop of Jerusalem it is stated, as I believe, that he is authorized to open schools, and the well-known Hatti-Houmayoun guaranteed to all Christian communities the right to open schools. Shall now these privileges be curtailed by restrictive orders? If the Turkish Government is anxious to care for the education of their subjects, why does this anxiety show itself in the sudden closing of a vernacular day-school opened by the English, against which, hitherto, no objection nor complaint has been made? Or would the introduction of a new system not require an equal application to all Christian communities? But I have not yet heard that a general investigation has been made whether other schools possess permissive documents, or that any other schools have been peremptorily closed for the want of them, though the French Sœurs de Nazareth established schools at Nazareth, Caïffa, Acco, and Shefamer, and though the Franciscans are building very extensively here and on Mount Tabor.

Besides this there exists no Inspector of schools here, nor has the Turkish Government during the last twenty-four years even taken the slightest notice of the schools superintended by us.

The closing of our school at Acco has caused great surprise to the inhabitants, and disappointment to the Protestants, and it is naturally regarded as a sign that the Turkish

Government wants to put down Protestantism by force. Our teacher at Acco was told by a Latin that if anyone should now profess to be a Protestant he would strike him on his right cheek and on his left, and tell him this was done by the order of the Pasha.

I would now take the liberty to ask you that you would have the kindness to explain these circumstances to His Excellency the Governor-General of Syria, and request him to issue the permission for re-opening the school at Acco.

At the same time, I beg to mention that two orders from the Wali to the Mouteseriff of Acco, with regard to the more effective representation of Protestants in the medjlis of Nazareth and Shefamer, have been utterly disregarded by him.

I have, &c.

(Signed) JOHN ZELLER.

Extract from a Letter dated Constantinople, September 25, 1874, from the Rev. Robert Weakley, addressed to the Secretaries of the Church Missionary Society.

On my arrival at Constantinople in May, I found our missionary atmosphere heavy with impending troubles. The constant expectation of events which would materially affect our work in the country, and the difficulty of giving shape to apprehensions, however real, have led me to defer writing until now. At the present moment, looking at our position merely from the human point of view, there is nothing but the general instability of Turkish affairs to prevent the entire suppression of missions to Mohammedans in Turkey. There are many indications that this is the systematic policy of the present Administration. It will not be needful to enter into any lengthy statement of what has occurred. I will merely make a few notes illustrative of the systematic character of the present movement against Christian work.

1. With regard to the three teachers of schools among the Ansairiyeh, in the neighbourhood of Lattakia, these men had been consistent Christians for periods of from eight to ten years. They had scrupulously paid the tax to which every Christian is liable as not being permitted to serve in the army, and had obtained receipts for those payments. They had pursued their profession as schoolmasters, unmolested and respected, until a new Deputy-Governor arrived at Lattakia. One of this officer's first acts was to close a school which Mr. Beattie, the American missionary, had recently opened. The three teachers were then invited to call upon him, and they suspecting, from what they had seen, that mischief was intended, took advantage of the form in which the invitation was sent to decline the honour. One of the sheikhs of their tribe was then commissioned to carry a second message, and to assure them that no harm was intended. Upon this assurance they went, were received politely, but in the midst of friendly conversation, a sign was given, they were immediately surrounded by soldiers, bound with chains, and carried off. They were then drafted into the army, were ill-treated, and commanded to abjure their faith. They were told that there were none but Mussulmans in the army, and that Mussulmans they must be by persuasion or by force. In the meantime, the schools were and are now closed. The assurance given to our Government that the men had been set at liberty was a deliberate lie. To this hour they have not been set free. Throughout the winter, the officers of the regiment into which they had been drafted continually urged them to desert, but without success. Not long ago, however, at the request of Sir Henry Elliot, the order was issued that they should be sent to the capital. Mr. Beattie, the American Missionary, had been with them, and had been much cheered by their constancy and faith, and had exhorted them rather to serve out their time patiently than to desert. To this they had assented readily; but when the order came for their removal, the officers made use of it to work upon their fears, by saying that it was intended to send them to Yemen, a place terrible to the Turks from the disease and death which reign among the soldiery, and by many other suggestions they succeeded in scaring two of the poor fellows away. After wandering about for a few days, they returned to their homes, to await what may come next. The third, David Suleiman, is here, confined to barracks and ill-treated, although our Ambassador informs us that the Grand Vizier has promised that he shall not be molested, and shall have perfect liberty to exercise his religion, see his friends, and go to a place of worship on the Lord's-day. He has been visited with very great difficulty; but never allowed even the common privileges of all soldiers when off duty.

With regard to these Lattakia men, it may be urged that the Turks have the right to take their soldiers from whatever class they please, and that the only thing we can ask is that they (the Protestant Christians) shall not be ill-treated as soldiers. No one disputes this abstract proposition; but there is a regular conscription, which is not and

never has been, and assuredly is not intended to be applied to Christians. The army is the army of Islam, and from the Christian population a regular tax is levied in lieu of service, called "bedeliyé," which these men have paid regularly. The men were not drawn in the conscription, but forcibly taken from their homes. Among the Turks, ecclesiastics and schoolmasters are exempt; any man who passes a certain book-examination is exempt, and there are thousands of men in the Empire, who have neither interest in or connection with any mosque or school, who are not liable to service on this ground. The fact that three Protestant Christian schoolmasters were forcibly taken from their work and thrust into the army remains unique and inexplicable upon any other supposition than that of deliberate religious persecution. If any three Greek schoolmasters in any one district were so taken and put into the army, there would be a cry of wrath, and probably much more than a cry, from Crete to St. Petersburg; all Europe would hear of the outrage. The Protestants, who have, on paper at least, equal rights with any other subjects of the Empire, are the only people who may be and are defamed and insulted with impunity. A Turk told me the other day that the Hatti-Humayoun, which I quoted to him, was like pleasant words spoken to a clamorous child to quiet him.

2. The next case is that of Mustapha, a Turk, a Christian of some fourteen years' standing, who, on daring to go openly to Christian worship in his native place, Marash, was arrested, together with his eldest son, Ali, and on their confessing their faith, were ill-treated, thrust into prison, sent bound to Aleppo, and there shipped to Constantinople, his wife having been brought down to the coast and put on board with him. Arrived in the capital, they were all put into the jail, the men with the criminals of the worst class, the woman in the women's prison, where they were detained twelve or fourteen days. Representations were made to the British Embassy, and, at the end of the period mentioned, notice was sent to the Embassy by the Minister of Foreign Affairs that the prisoners had been released. In fact, they were taken by guards on board a Turkish ship, and delivered to the custody of the Governor of Smyrna, who let them out of prison on their finding sureties that they should not leave the town or take any employment without the knowledge and permission of the Government, and that they should present themselves at the Government House once a week. In the meantime, their three younger children, the eldest of whom is fourteen or fifteen years of age, are kept in Marash, and compelled to go to a Mohammedan school.

3. With regard to the printing of the Turkish Scriptures, we are told, after ten years of unquestioned liberty to print the Scriptures and books concerning the Scriptures, that a special license is necessary. In consequence of this intimation, the printer made formal application for the permit. At first he was told to call again in a week's time for a reply, and on his calling at the end of that time, was put off for a month. Again, at the appointed time, he went to the Bureau, and was told with a sneer by the officials that a month afterwards would be time enough to seek for his permit; and now lately he has been treated with great insolence by the officials, who contemptuously informed him that the matter rested with the Grand Vizier. The master printer now refuses to submit to any further indignity, and will not again apply for the license. Thus, at this moment, with a quantity of type locked up in proofs, we stand, as far as the Osmanli Testament is concerned, just where we were three months ago.

The telegram which was published some time ago in the "Times," and copied by other newspapers, stating that the Grand Vizier had resolved to prohibit the printing and sale of the Scriptures in the Turkish language, was a true statement. It was the report of a direct communication from His Highness to Mr. Baker, the American Minister of Legation. I have not heard, however, that the sale of these books has been more than temporarily interrupted, but you will see that the threat to stop the printing has been accomplished to the letter. I may mention here, as showing the deliberate character of all these proceedings, that the Grand Vizier has stated distinctly to the American Minister of Legation that there is no such individual as an Osmanli Christian in the Empire, and that the Turkish Government is determined not to recognise the existence of one.

4. A short time ago I had an opportunity of reading a circular letter addressed to one of the Governors of the larger provinces, and signed by the Grand Vizier. The purport of the circular was to the effect that, as many books had been introduced into the provinces injurious to the Ottoman Government, and subversive of the Mohammedan religion, and as, moreover, the ordinary Custom-house arrangements had failed to stop the circulation of these books, in consequence of which the minds of very many of the Mahomedan population had become disturbed and disaffected, the Governor was commanded to use more stringent measures for stopping the introduction and forbidding the circulation of the said books, &c.

Now while this is, without doubt, aimed directly at our controversial publications, which have been and are read in every part of the Empire, there can be little doubt also that the command will be stretched, on occasion, to prohibit the sale of Scriptures.

While this paper was passing through the press, publicity has been given in the "Times," by the Secretary of the Evangelical Alliance, to fresh cases of persecution, of which the following account has been communicated to him by the American missionary at Lattakia:—

"On the 15th of October, a company of Turkish soldiers went up and surrounded Bahmra. A detachment went into the mission-yard, broke in the doors of the school-room, and took out Hassad Canoan, Ibrahim Akalofie, Haliel Rahjee, three members of our Church (the first two teachers), and Jusef Jaded and Saleem Chalafie, the two who escaped from Damascus in July last.

"The men have all been put into the army without the form of conscription. The soldiers went into their houses, broke the pottery vessels in which the Fellaheen keep their winter stores, and carried off their wheat, oil, figs, &c. They also went into the houses of others who had children in the schools, and committed similar outrages. Fredda, the wife of Saleem, was beaten with the butt-ends of their muskets, because she wore the Christian dress."

It is evident that the impunity attending the former arbitrary proceedings of the Turkish Administration has encouraged them to commit fresh acts of persecution, and unless they can be convinced that infraction of solemn pledges will not be tolerated, grave consequences may be apprehended.

*Church Missionary House, Salisbury Square,
November 12, 1874.*

No. 130.

The Earl of Derby to Musurus Pasha.

M. l'Ambassadeur,

Foreign Office, November 28, 1874.

I HAVE the honour to inform your Excellency that the members of the Evangelical Alliance who desire to present an address to the Sultan have signified their anxiety to receive an early answer to their application for an audience of His Imperial Majesty, as they contemplate leaving for Constantinople in the course of a few days.

As I observe that the telegram from the Minister for Foreign Affairs which your Excellency was so good as to communicate to me on the 25th instant, contains no definitive answer to the application of the Evangelical Alliance, I should be obliged if your Excellency would inform me at your early convenience of the decision which may be come to on the subject.

I should also be glad if your Excellency would let me know whether there is any objection to my communicating a copy of this telegram to the Alliance.

I am, &c.
(Signed) DERBY.

No. 131.

Vice-Consul Green to the Earl of Derby.—(Received November 30.)

My Lord, *Damascus, November 15, 1874.*

WITH reference to my despatch of the 10th instant, I have the honour to transmit herewith the copy of a despatch addressed by me this day to Sir H. Elliot, reporting to his Excellency that four of the Ansairiyeh Christians have been placed in the Dragoon Regiment, and that the fifth has been dismissed to his home as he drew a blank conscription paper.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 131.

*Vice-Consul Green to Sir H. Elliot.*Sir, *Damascus, November 15, 1874.*

WITH reference to my despatch of the 10th instant, I have the honour to report that his Highness Essad Pasha has informed me that he has already caused four of the Ansairiyeh Christians to be drafted into the Dragoon Regiment in which men of all religious denominations are serving, and that the fifth Ansairiyeh, whose name I have not yet ascertained, having drawn a blank conscription paper, has been dismissed and told that he is at liberty to return to his home.

I have, &c.
(Signed) W. KIRBY GREEN.

No. 132.

*Vice-Consul Green to the Earl of Derby.—(Received November 30.)*My Lord, *Damascus, November 15, 1874.*

I HAVE the honour to transmit herewith the copy of a despatch addressed by me this day to Sir Henry Elliot, reporting to his Excellency that there is no foundation for the statement in the newspapers that orders had been issued for the suppression of all Protestant schools in Syria.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 132.

*Vice-Consul Green to Sir H. Elliot.*Sir, *Damascus, November 15, 1874.*

I HAVE the honour to report to your Excellency that his Highness Essad Pasha has informed me that he has noticed with regret that it has been prominently stated by the European press that orders had been issued by his Government for the suppression of all Protestant schools in Syria. There is no foundation for the statement, as schools may still be established on the observance of the same regulations as govern those that already exist in the country.

I have, &c.
(Signed) W. KIRBY GREEN.

No. 133.

*Lord Tenterden to the Rev. J. Davis.*Sir, *Foreign Office, November 30, 1874.*

I AM directed by the Earl of Derby to inform you that a despatch dated the 10th instant has been received from Her Majesty's Vice-Consul at Damascus, in which Mr. Vice-Consul Green reports that five Ansairiyeh Christians having arrived from Lattakia and Beyrout as military prisoners, he requested Essad Pasha to give orders that these men should be treated in the same manner as other military prisoners.

His Highness replied that he had not heard of the arrival of the men in Damascus; but he promised to inquire into the matter, and he foresaw no difficulty in having all the Ansairiyeh Christians attached to the Dragoon Regiment, which is composed of men of all religions. In any event, his Highness would be careful to see that those men should not be treated in an exceptional manner, and that they should have full liberty to follow the precepts of their religious faith.

I am, &c.
(Signed) TENTERDEN.

No. 134.

Consul-General Eldridge to the Earl of Derby.---(Received December 1.)

My Lord,

Beyrout, November 13, 1874.

I HAVE the honour to transmit herewith a copy of a despatch which I have this day addressed to Her Majesty's Ambassador at Constantinople, reporting the arrest of five Ansairiyeh converts to Christianity in the district of Lattakia.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure 1 in No. 134.

Consul-General Eldridge to Sir H. Elliot.

Sir,

Beyrout, November 13, 1874.

WITH reference to Mr. Vice-Consul Green's despatch of the 10th instant, reporting the arrival at Damascus, under arrest from Lattakia, of five Ansairiyeh converts to Christianity, I have the honour to transmit herewith a copy of a despatch which I have received from Mr. Vice-Consul Vitali, reporting the manner in which these men were arrested.

I have also received a letter from the Rev. Mr. Beattie, American missionary at Lattakia, giving further details of the arrest of these men, and the violation of the mission premises, which in substance agree with Mr. Vitali's report.

With regard to the view I take of these proceedings on the part of the Turkish authorities, I have nothing to add to the opinion I expressed in my despatch to the Earl of Derby of the 20th of May last, of which a copy was transmitted to Mr. Locock in mine of the same date.

I venture to remark, however, that if the proposal of his Highness Essad Pasha, to draft the Ansairiyeh Christians into the Dragoon Regiment, where no doubt they would be better treated than in a purely Moslem corps, be accepted, it would be an admission that converts to Christianity remain as liable to military service as if that conversion had not taken place, and thus the question of principle would be settled.

I have, &c.

(Signed) G. JACKSON ELDRIDGE.

Inclosure 2 in No. 134.

Vice-Consul Vitali to Consul-General Eldridge.

M. le Consul-Général,

Lattaquié, le 10 Novembre, 1874.

J'AI l'honneur de vous informer que le bataillon d'infanterie qui se trouve en cette ville depuis l'an dernier, s'étant rendu depuis quelques semaines au Canton de Kalbyré (district de Gébelé), pour y empêcher, dit-on, les Ansairiyehs de s'immiscer dans les troubles de leurs coreligionnaires de la même montagne dépendants de Hama, en arrivant au village de Kardaha, où il a campé, a détaché une compagnie de troupes sous le commandement du Kolagassi (Lientenant-Major) Chawki Effendi, avec ordre de surprendre le village de B'hamra, et d'y attrapper les Ansairiyehs convertis au Christianisme qui s'y trouveraient. Cet ordre a été donné par le Bimbachi (Major) Habib Effendi, mais j'ignore de quelle autorité supérieure il tire son origine.

Le village de B'hamra et l'école des missionnaires Américains qui s'y trouve ont été donc surpris le 15 Octobre à la pointe du jour. Cinq Ansairiyehs convertis furent saisis dans cette école; ce sont: Yussuf Jedeed et Halil Rahjé, qui ont été pris et envoyés à Damas l'an passé et qui ont déserté depuis quelques mois, ainsi que Salim Kalafy, Assad Kanâan, et Ibrahim Kalafy. Ces trois derniers se sont convertis en 1865, 1870, et 1871.

Tous les cinq ont été envoyés à Beyrout et à Damas, depuis 28 Octobre dernier; et l'on assure qu'ils ont été très maltraités par les troupes.

Aussi j'ai appris d'une source certaine que toutes les maisons des dits convertis ont été visitées et presque saccagées par les troupes, et que lorsque l'école a été surprise Chawki Effendi a enfoncé la porte d'une chambre où ces convertis dormaient et que les

troupes ont dit des injures et des blasphèmes contre les Chrétiens et contre leur religion.

Je crois devoir ajouter, M. le Consul-Général, que dans le Canton de Kalbyé, il y a plusieurs déserteurs de l'armée Ottomane, et que nul n'a été ainsi saisi sauf les Ansairiyehs convertis.

J'ai, &c.
(Signé) N. VITALI.

(Translation.)

Sir,

Lattakia, November 10, 1874.

I HAVE the honour to inform you that the battalion of infantry, which has been in this town since last year, went some weeks ago to the Canton of Kalbyé (district of Gébelé), in order, as it was said, to prevent the Ansairiyehs from mixing themselves up in the troubles of their co-religionists of the same mountain district, who are dependencies of Hama. On arriving at the village of Kardaha, where they encamped, a company was detached under the orders of Kolagassi (Lieutenant-Major) Chawki Effendi, with instructions to surprise the village of Bhamra, and to seize any Christian Ansairiyeh converts who might be there.

This order was given by Bimbachi (Major) Habib Effendi, but I am not aware from what superior authority it emanated.

The village of Bhamra, and the school of the American Missionaries which is located there, were thus surprised on the 15th of October, at break of day. Five Ansairiyeh converts were seized in this school. Their names are: Yussef Jedeed and Halil Rahjé, who were arrested and taken to Damascus last year, and who deserted some months ago, and Salim Kalafy, Assad Kanâan, and Ibrahim Kalafy.

The three latter were converted in 1865, 1870, and 1871.

All five have, since the 28th of last October, been sent to Beyrout and Damascus; and it is asserted that they were much maltreated by the troops.

I have also learnt from an authentic source that all the houses of the said converts were visited and almost sacked by the troops, and that when the school was surprised, Chawki Effendi burst in the door of a room where these converts slept, and that the troops proffered insults and blasphemies against the Christians and their religion.

I think it right to add, Mr. Consul-General, that there are in the Canton of Kalbyé several deserters from the Ottoman army, but that none have been arrested save the Christian converts.

I have, &c.
(Signed) N. VITALI.

No. 135.

Sir H. Elliot to the Earl of Derby.—(Received December 1.)

(Extract.)

Therapia, November 15, 1874.

FOR some time past a new Turkish translation of the Bible has been in preparation by the Bible Society, which has for a number of years had a branch in this country, but the authority to print it was continually withheld, notwithstanding the support that I gave to the application for the Government sanction, and I was finally informed that the Porte had resolved absolutely to refuse it.

Upon this I sent a very strong message to Aarifi Pasha through Mr. Sandison who was directed to point out to his Excellency that, as permission for the printing and circulation of the Scriptures had been given eleven years ago at the request of Her Majesty's Embassy by the late Aali Pasha, if it was now withheld, it would indicate on the part of the Porte a change in the policy so often proclaimed, of allowing perfect liberty to all religious denominations; and as I refused to believe that the Sultan could have sanctioned any such change, it would be my duty to ascertain the fact.

A few days later I saw his Excellency myself, when he promised that the question should be again examined, and if it turned out, as I asserted, that the permission of the Porte had on a former occasion been granted, there would seem to be less reason for refusing it now, and his Excellency yesterday informed me that I might consider the question as satisfactorily settled.

I am bound to confess that in the conversation which I had with Aarifi Pasha

yesterday, there was much in what his Excellency said, both about the printing and the colportage of the Bible in Turkish, which gave some justification for the repugnance of the Porte to allow them.

He repeated that no objection was felt by the Porte either to the printing or the hawking of the Scriptures in the language of any of the Christian subjects of the Sultan; but that it could not be denied that the Turkish copies were intended for the Mahomedans whom it was hoped to convert, and the books were often thrust upon them in a manner which to them seem offensive to their religion, and repugnant to their feelings.

I inquired whether the dislike to the colportage was confined to that of the books in Turkish.

He said that as far as the Porte was concerned it was, but the custom was complained of by most of the Chiefs of the different Christian denominations, and especially by the Catholics.

I begged him not to be persuaded by their arguments to stop a practice which had gone on for a good many years with the direct sanction of the Porte, and the withdrawal of which would be deeply resented by a large and influential class of the well-wishers of Turkey.

No. 136.

Sir H. Elliot to the Earl of Derby.—(Received December 1.)

(Extract.) *Therapia, November 20, 1874.*

YOUR Lordship has received from Mr. Consul-General Eldridge a copy of his despatch to me inclosing a despatch from the Vice-Consul at Lattakia, stating that he had been officially informed by the Kaïmakam of that place that he had received instructions from the Porte not to allow foreigners to build or open schools, and to cause all those at present open to be closed.

When I remonstrated against this measure to Aarify Pasha, he promised to confer on the subject with the Grand Vizier, and to see what could be done.

The matter having been commented upon in the press, the Porte has caused it to be intimated to the newspapers that no such instruction had emanated from it, and that there was no intention of closing the schools.

No. 137.

The Rev. J. Davis to the Earl of Derby.—(Received December 1.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, December 1, 1874.*

My Lord,

I BEG on behalf of the Council of the Alliance to acknowledge the receipt of your Lordship's letter of the 30th ultimo, communicating that Ansairiyeh Christians had arrived at Damascus from Lattakia and Beyrout as military prisoners, and that through the representations made by Her Majesty's Vice-Consul at Damascus Essad Pasha had promised to see that these men were not treated in an exceptional manner, and that they would have full liberty to follow the precepts of their religious faith.

Permit me to call your Lordship's attention to the following particulars recently communicated to the Alliance of the outrages committed upon these Christian men and upon others connected with the Mission in Lattakia and its vicinity:—

"In October last the Governor of Lattakia, having incited the villagers to violence, notwithstanding the protest made against such proceedings, ordered a regiment of soldiers to go into Kurdaha, near to Bahmra, where are the summer quarters of the missionaries, and where is the oldest mission school in this part of the country. A detachment went into the mission yard, broke in the doors of the schoolroom, and took out three members of the Christian Church and two others, being those who had escaped from Damascus in July last. These men have all been put into the army without the form of conscription and on no other pretext but that they were Christians. Their houses were surrounded by another detachment of soldiers, who had orders to burn them to the ground. Being built of stone and thickly roofed with earth the attempt failed, but the doors were broken open and the houses pillaged. Everything that could be carried off was removed and what remained was utterly destroyed. The wife of Salim,

being a Christian woman and wearing Christian clothing, was fearfully beaten by the soldiers and cursed for her religion. Her clothes also were almost entirely torn from her person.

"While this was being enacted in one quarter of the village another body of soldiers surrounded the mission premises, scaled the walls and broke open the doors. They entered the bedroom of M. Geradini, the Principal of the school, and tore the clothes from the bed in which his wife was lying at the time suffering from severe illness.

"The five Ansairiyeh Christians had their hands tied behind them and were marched to Kurdaha, where they were put in chains, beaten, cursed, derided, and spit on, because they were Christians. No other charge was brought against them.

"They were then marched, still in chains, to Lattakia, a distance of over nineteen miles, enduring the greatest sufferings on the journey."

I regret also to acquaint your Lordship that communications from Constantinople inform me that, notwithstanding the statement that Dawoud would be allowed Christian worship, all efforts up to the present time to bring him to public worship had been unsuccessful, and although the Grand Vizier assured Sir Henry Elliot that the Marash family at Smyrna were free to go anywhere except to their own district, they are in perfect ignorance as to any such liberty being allowed them.

I regret exceedingly to trouble your Lordship with a further extract from the letter of our correspondent to the following effect:—

"We have been engaged in this conflict now for more than a year, and as yet we have gained absolutely nothing from the Porte. Of denials, assurances, and hollow promises, we have had enough and too much, and the Turkish Government now more than ever seems determined to deprive the Moslem by any means of violence and cruelty of the benefits of Christianity, notwithstanding the Imperial edict and an official explanation given by Fuad Pasha at the time "that it extended expressly to all, including Mussulmans, though not mentioned by name."

I remain, &c.

(Signed) JAMES DAVIS.

No. 138.

Lord Tenterden to the Earl of Shaftesbury.

My Lord,

Foreign Office, December 2, 1874.

I AM directed by the Earl of Derby to acknowledge the receipt of your Lordship's letter of the 20th ultimo, with its inclosures, respecting the publication at Constantinople of a Turkish translation of the Bible.

I am, &c.

(Signed) TENTERDEN.

No. 139.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, December 4, 1874.

WITH reference to my letter of the 30th ultimo, I am directed by the Earl of Derby to inform you that a further report, dated the 15th ultimo, has been received from Her Majesty's Vice-Consul at Damascus stating that four of the five Ansairiyeh Christians have been placed in the dragoon regiment, in which men of all religious denominations are serving, and that the fifth, who had drawn a blank conscription paper, has been dismissed and told that he is at liberty to return to his home.

I am, &c.

(Signed) TENTERDEN.

No. 140.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, December 4, 1874.

I AM directed by the Earl of Derby to inform you that a telegram has been received from Her Majesty's Ambassador at Constantinople, stating that, in a conversa-

tion on the 28th ultimo about the reception by the Sultan of the deputation from the Evangelical Alliance, the Turkish Minister for Foreign Affairs said that no engagement on the subject could be taken by the Porte beforehand, but he added that if the deputation came, he had no doubt that upon application the Sultan would receive the members.

It would be desirable, however, if the deputation decided upon coming, to alter the heading, which would be considered objectionable, and to correct the inaccuracies contained in some of its statements.

I am, &c.
(Signed) TENTERDEN.

No. 141.

*Lord Tenterden to the Rev. E. Hutchinson.**

Sir, *Foreign Office, December 4, 1874.*
WITH reference to your letter of the 25th ultimo, I am directed by the Earl of Derby to acquaint you that Her Majesty's Vice-Consul at Damascus reported on the 15th ultimo that he had been informed by Essad Pasha that he had noticed with regret the statement in the European press that orders had been issued by his Government for the suppression of all Protestant schools in Syria. His Highness stated that there was no foundation for the statement, as schools might still be established on the observance of the same regulations as govern those already existing in Turkey.

Lord Derby has also received a despatch on this subject, dated the 20th ultimo, from Her Majesty's Ambassador at Constantinople, reporting that the matter having been commented upon in the press, the Porte had caused it to be intimated to the newspapers that no such instructions as that alleged had emanated from it, and that there was no intention of closing the schools.

I am, &c.
(Signed) TENTERDEN.

No. 142.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, December 6, 1874.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 1st instant, respecting the treatment of the Ansairiyeh conscripts who had lately arrived at Damascus and of other Christians; and I am to inform you that a copy of your letter will be communicated to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) TENTERDEN.

No. 143.

The Rev. J. Davis to Lord Tenterden.—(Received December 5.)

(Private.) *Evangelical Alliance, 7, Adam Street, Strand,*
Dear Lord Tenterden, *London, December 5, 1874.*

MANY thanks for the important communications to-day.

I should be glad to receive a hint as to the corrections desirable to be made in the heading, &c., of the Address, which of course we wish to be as correct and acceptable as possible.

Truly yours,
(Signed) JAMES DAVIS.

* A similar letter was addressed to the Rev. J. Davis.

No. 144.

*Lord Tenterden to the Rev. J. Davis.*Dear Mr. Davis, *Foreign Office, December 5, 1874.*

IN reply to your letter of to-day, I can only tell you that the telegraphic message was repeated to you as we received it. I presume Sir H. Elliot will explain the alterations personally to the deputation.

Yours sincerely,
(Signed) TENTERDEN.

No. 145.

*Vice-Consul Green to the Earl of Derby.—(Received December 7.)*My Lord, *Damascus, November 19, 1874.*

I HAVE the honour to transmit herewith, for your Lordship's information, the copy of a despatch addressed this day by me to Sir Henry Elliot, reporting to his Excellency certain incidents that have occurred in Damascus and at Horus, and which have caused the native Christians to fear an attack from the Moslems.

I have, &c.
(Signed) W. KIRBY GREEN.

Inclosure in No. 145.

*Vice-Consul Green to Sir H. Elliot.*Sir, *Damascus, November 19, 1874.*

I HAVE the honour to report that, the day before yesterday, some Christians came to me in considerable alarm and informed me that in the most crowded part of the bazaar a Derwish was shouting at the top of his voice the following words:—"The measure has now been filled to the brim; it needs to be cleaned until it is cleansed;" and that the Derwish was, at the same time, making signs with his hands, indicating in this country of the cutting of throats.

My informants told me that the Moslems understood the Derwish to be preaching against the Christians, and as this belief was confirmed to me by Mohammedans, I thought it proper to call upon the Acting Governor-General, Essad Pasha being absent at Tripoli, with reference to the riots at that place, and to urge him to have the Derwish arrested. The Naib Effendi thanked me for my action in the matter and promised to have my suggestion carried out.

Yesterday I was again visited by native Christians who came to relate to me the alarming accounts that had been received by them of a riot at Horus on the 9th instant, when three bodies of Mohammedans invaded the Christian quarter from separate directions and so frightened its inhabitants that they sought refuge in the churches and the buildings attached to them. The Moslems appear to have been excited by an endeavour of the Christians to obtain justice from the authorities for the murder of the guard of their quarter, who was shot down a few nights before, when opposing the escape of some thieves who had broken into a Christian house.

I also made a representation to the Naib Effendi on this subject, and he informed me that he had already directed the Lieutenant-Governor of the district to proceed at once in person to Horus from Hamah to institute an investigation into the cause of the disturbance and to punish the rioters.

I have, &c.
(Signed) W. KIRBY GREEN.

No. 146.

*Sir H. Elliot to the Earl of Derby.—(Received December 8.)*My Lord, *Therapia, November 21, 1874.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 10th instant, transmitting to me the copy of a further letter from the Evangelical Alliance respecting the Ansairiyeh Christians.

The Council of the Alliance have directed their Secretary to inform your Lordship that the communications received by them from the district in which these men were leading peaceful and useful lives without ferment or opposition on the part of the native population were quite inconsistent with my statement that they had been removed to Constantinople for their protection from the persecution they were suffering in Syria.

If your Lordship will have the goodness to cause a reference to be made to my despatches it will be seen that they do not bear the construction which has been put upon them, for certainly nothing could be further from my intention than to imply that these people had been removed from the scene of their useful occupations for their own protection.

It was long after the removal from those occupations, when they were stated to be subjected to cruel maltreatment from the military authorities at Damascus, that, in order to withdraw them from it, I advocated their transfer to Constantinople, where I was certain of being able to exercise a beneficial influence in their favour, if renewed acts of cruelty were reported to me.

I stated this in my despatch, but I never as much as hinted that in the district from which the conscripts were brought there was on the part of the population a hostility which rendered their removal desirable for their own protection.

I have, &c.
(Signed) HENRY ELLIOT.

No. 147.

Sir H. Elliot to the Earl of Derby.—(Received December 8.)

My Lord,

Therapia, November 22, 1874.

IN transmitting to me, by your despatch of the 4th instant, the copy of a letter from the Moderator of the Presbyterian Church in Ireland, respecting the Ansairiyeh converts, your Lordship has directed my special attention to that portion of it from which it appeared that the promise given by the Turkish authorities respecting the soldier Daoud had not been kept.

I presume that it is the promise respecting the conscript's freedom to attend divine worship which is alluded to, upon which point I must refer your Lordship to my despatch of September 13th, reporting that, although there had been some delay in giving the necessary orders, the only difficulty in the matter had proceeded latterly, not from the military authorities, but from the want of any service conducted in a language which Daoud understands.

Messrs. Magill and Rogers observe, in their letter to your Lordship, that the point of the case of the Ansairiyehs is that the men were arrested for being converts, and that Daoud, contrary to law, is undergoing penal servitude in the army for holding firm by his profession of Christianity.

Your Lordship is, however, aware of the inaccuracy of that statement.

The complaint against the Porte was that the men, having become Christians, were treated precisely as if they had not been converted, and that they were enrolled in the army in spite of, but not in consequence of, their conversion.

It is equally incorrect to say that Daoud is undergoing penal servitude in the army for holding firm to his religion, for if he had recanted at once he would still have had to serve his time like other soldiers.

The suggestion that a substitute might be got for Daoud, as is done for so many others, is looked upon as offensive to the religious instincts of Christendom, and it is supposed that the conscript, being "free-born," would not consent so to purchase his freedom; but it might be remembered that the system of providing substitutes has long been in force in almost every Christian State in Europe, and also that Daoud, like every soldier in the Turkish army, although born free, was by birth, like them, liable to the conscription.

I have, &c.
(Signed) HENRY ELLIOT.

Sir. H. Elliot to the Earl of Derby.—(Received December 8.)

My Lord, *Therapia, November 25, 1874.*

I LOST no time in forwarding to Aarify Pasha the substance of your Lordship's telegram of the 21st instant, informing me of the wish of a deputation of the Evangelical Alliance to present an Address to the Sultan on the religious persecution supposed to be going on in Turkey, and I requested his Excellency to enable me as soon as possible to reply to your Lordship by telegram.

I last night received from him the inclosed extract of a telegram, by which he has sent his answer to Musurus Pasha.

It leaves little ground for expecting that the Sultan will grant the deputation an audience, and the title and wording of the Address, of which a copy has been given to me by the Agent of the Alliance, will not, when they are known at the Porte, help to remove the difficulty.

Before I received your Lordship's telegram an intimation of the intention of the Evangelical Alliance had appeared in the telegraphic announcements of the local newspapers, and Aarify Pasha asked me what the alleged religious persecution was.

I could not but answer that I knew of nothing which could with any justice be so designated, although the case of the converts from Marash unfortunately afforded one undoubted instance in which a family had been treated cruelly and as criminals for no other reason than their adoption of the Christian religion.

The parents were still deprived of their children, no punishment had been inflicted on those who had ill-treated them, and this case, therefore, might correctly be said to be one of religious persecution.

I did not allude to the hardship of their being refused permission to return to Marash, for my information has not at all satisfied me that they could do so without risk both to themselves and to public order.

Although these people were in the first instance banished to Smyrna, your Lordship is aware that I almost immediately afterwards obtained from the Grand Vizier the assurance that they need not consider themselves obliged to remain there, and that they might go where they pleased, except to Marash.

The case of the Ansairiyehs is the only other one alluded to in the address, and I am convinced that, if the facts had been represented as they really occurred, the distinguished persons who have signed it would not have seen in them a case of religious persecution, and would still less have endorsed the statement that they had been enrolled in the Turkish army on their refusal to abjure the Christian faith.

In none of the communications, either in writing or in person, made to me here by those who have deeply interested themselves in the case of these men had the latter statement ever been hinted at.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 148.

Aarifi Pasha to Musurus Pasha.

(Télégraphique.)
(Extrait.)

Le 24 Novembre, 1874.

EN réponse à la question de savoir si la députation que l'Alliance Evangélique se propose d'envoyer à Constantinople sera reçue par le Sultan, la Sublime Porte déclare réserver ce point à la volonté de Sa Majesté, qui en décidera en temps et lieu.

Pour ce qui est de la mission en elle-même, il n'y a pas lieu d'en espérer quelque résultat pratique, le Gouvernement Impérial n'ayant pas l'intention de modifier en rien la ligne de conduite éminemment libérale qu'il a constamment suivie à l'égard des divers cultes professés dans l'Empire.

(Translation.)

(Telegraphic.)
(Extract.)

November 24, 1874.

IN answer to the question as to whether the deputation which the Evangelical Alliance propose to send to Constantinople will be received by the Sultan, the Porte

declares that it reserves this point for the decision of His Majesty, who will come to a determination at the proper time.

As regards the Mission itself, there is no reason to expect any practical result from it, as the Imperial Government has no intention of modifying the eminently liberal line of conduct which it has constantly observed towards the different religions professed in the Empire.

No. 149.

Sir H. Elliot to the Earl of Derby.—(Received December 8.)

My Lord, *Therapia, November 26, 1874.*

THE Vekil, or Chief of the native Protestants in Turkey, called upon me this morning, and put into my hands a Memorandum enumerating various grievances of which the community with just cause complain.

The Memorandum, which, going into many details of particular cases, is too long for transmission to your Lordship, states that the want of adequate "acknowledgment of the Protestants prevents that freedom of audience with the local authorities which is necessary for their protection, and for enabling them to oppose the oppressive interference by the privileged religions of other communities."

The letters from the Provinces establish the fact that the orders from the Porte in favour of the Protestants, not being sufficiently stringent in their terms, are invariably disregarded, and often do more harm than good.

The inclosed Memorandum, given me by the Vekil, contains the suggestions which he wishes to be made to the Porte for giving the community the position to which it is entitled, and which are so fair and reasonable that I propose to submit them to the Porte, and to give them my utmost support.

The German Ambassador, who has already expressed his readiness to act with me in matters affecting the Protestants, will, I have little doubt, cordially co-operate with me on this occasion.

The Vekil being in correspondence with members of his community in every part of the Empire, has probably better means than anyone else of being informed of any religious persecution which may be going on, and I availed myself of his visit to enquire whether there was any to be complained of.

His answer was a distinct negative.

There was, he said, nothing of the nature of a persecution of Christians by the authorities; but there was, as he had before said, a very decided sectarian persecution by the more powerful communities, which encouraged the authorities in acts of harshness towards any one of the obnoxious and uninfluential class of Protestants.

There had been the Marash case, but it was an isolated instance.

I next spoke to him about the Ansairiyeh converts, and their right as Christians to exemption from the conscription, and he answered without hesitation not only that they had no such right, but that he would extremely deplore its being conceded to converts.

I confess that I was at first surprised by this view of the question as coming from him; but he pointed out that the inevitable result of the recognition of the principle of exemption upon such grounds would be the nominal profession of Christianity by multitudes among the numerous races of this Empire, who, like the Ansairiyeh, can hardly be said to have a religion at all, and that nothing would grieve him so much as to see them enrolled in his community.

I have, &c.

(Signed) HENRY ELLIOT.

Inclosure in No. 149.

Memorandum.

AS it has been suggested that the means should be pointed out, which the Protestants would recommend the Government to adopt in order to relieve them from the grievances, of which they now complain, the following are respectfully submitted:—

1. That in view of rumours circulated in several parts of the country, to the effect that the Protestants are not a recognised community of this Empire, Vizirial letters

should be sent to all the provinces, recognizing the Protestants as an authorized community, and declaring that they shall individually and collectively be protected in the enjoyment of all the rights and privileges granted to the other communities of the Empire.

2. That, as it is contrary to the principles of Protestantism to confer secular powers on spiritual office-bearers, the Government should authorize the appointment of a layman as Vekil in every Protestant community, and should invest him with all the powers, representative and judicial, and all the honours and privileges of audience, that are bestowed on the spiritual chiefs of the other communities. Without this, the Protestant Vekils will not be able to maintain their position in opposition to the other communities.

3. Lastly, it is indispensably necessary that the Protestants should have seats in all the administrative and judicial councils of the Empire, both in the provinces and at the capital, that their office-bearers should be enumerated whenever those of the other communities are mentioned, and that proper accommodation at the Sublime Porte, and similar honours and distinctions as are enjoyed by the chiefs of the other communities, be conferred on the Protestant Vekil at Constantinople, and thus prove that he and the community he represents enjoy the confidence, favour, and protection of their Imperial Sovereign.

No. 150.

Musurus Pasha to the Earl of Derby.—(Received December 8.)

My Lord, *Ambassade Impériale Ottomane, Londres, le 7 Décembre, 1874.*

A LA réception de la lettre que votre Excellence m'a fait l'honneur de m'adresser en date du 28 du mois dernier, je me suis empressé de télégraphier à son Excellence Aarifi Pacha pour le prier de me mettre à même de communiquer à votre Excellence la décision définitive de la Sublime Porte sur l'audience sollicitée en faveur d'une députation que l'Alliance Evangélique se propose d'envoyer à Constantinople avec mission de présenter une adresse à Sa Majesté Impériale le Sultan.

J'ai l'honneur d'informer maintenant votre Excellence qu'il résulte d'une dépêche télégraphique que je viens de recevoir de son Excellence Aarifi Pacha, que le Gouvernement Impérial, n'ayant pas connaissance du texte de l'adresse dont il s'agit, n'est pas en position de donner une réponse définitive à la demande de l'Alliance Evangélique.

Quant au désir de votre Excellence de savoir s'il y a objection à ce que la dépêche télégraphique précédente de son Excellence Aarifi Pacha du 25 du mois dernier soit communiquée à l'Alliance Evangélique, j'ai l'honneur de lui répondre que je ne vois aucune objection à une telle communication, qui, au contraire, pourra servir à éclairer cette Société sur l'inutilité de sa démarche.

J'ai l'honneur, &c.
(Signé) MUSURUS.

(Translation.)

My Lord, *Imperial Ottoman Embassy, December 7, 1874.*

ON receipt of the letter which your Excellency did me the honour of addressing to me on the 28th ultimo, I hastened to telegraph to his Excellency Aarifi Pasha, begging him to enable me to communicate to your Excellency the definitive decision of the Sublime Porte as regards the audience requested on behalf of a deputation that the Evangelical Alliance proposes to send to Constantinople, with the object of presenting an address to His Imperial Majesty the Sultan.

I have now the honour of informing your Excellency, that it appears from a telegram which I have just received from his Excellency Aarifi Pasha, that the Imperial Government having no cognizance of the text of the said address, is unable to give a definitive answer to the request of the Evangelical Alliance.

As regards your Excellency's wish to know whether there was any objection to communicating to the Evangelical Alliance the former telegram of his Excellency Aarifi Pasha, dated the 25th ultimo, I have the honour to reply that I see no objection to such communication. On the contrary, it may serve to enlighten the Society as to the uselessness of this step.

I have, &c.
(Signed) MUSURUS.

No. 151.

*Sir H. Elliot to the Earl of Derby.—(Received December 9.)*My Lord, *Therapia, November 29, 1874.*

I HAVE had the honour to receive your Lordship's telegram of this day, directing me to endeavour to obtain a definitive answer from the Porte in reference to the wish of the Evangelical Alliance that a deputation of their members should be granted an audience by the Sultan.

I had yesterday spoken to Aarifi Pasha on the subject, when his Excellency said that the Porte could take no engagement beforehand, but that he did not doubt that, if the deputation arrived, the Sultan would, upon my application, receive the members of it.

The Ministers are, of course, unable to take any engagement without previously ascertaining the Sultan's pleasure, and they appear to wish to avoid this necessity till the deputation arrives.

If it should come it would, in my opinion, be desirable that the heading or title of the address should be so far altered as to remove what might appear to be offensive in its present designation as an address on the subject of religious persecution in Turkey.

An address on the position of the Christian subjects of the Sultan would have been less unfavourably looked upon, and if it should be possible to modify some of the statements, which, as will be seen from my previous despatches, are not in conformity with what I believe to be the true facts of the case as regards the Ansairiyehs, it would, I think, be very desirable.

I have, &c.
(Signed) HENRY ELLIOT.

No. 152.

*Sir H. Elliot to the Earl of Derby.—(Received December 9.)*My Lord, *Therapia, November 29, 1874.*

I HAVE the honour to inform your Lordship that the American Minister expresses himself as quite satisfied with the disposition of the Porte in regard to the late proceedings of the Syrian authorities in entering the American missionary domicile in searching for deserters.

Before Mr. Baker had made any complaint on the subject, I had informed the Grand Vizier of the occurrence, and I had recommended his Highness to take the initiative in saying that it should be investigated and properly dealt with.

He took the communication in very good part, and, thanking me for it, acted on the suggestion.

I have, &c.
(Signed) HENRY ELLIOT.

No. 153.

*Sir H. Elliot to the Earl of Derby.—(Received December 9.)*My Lord, *Therapia, November 25, 1874.*

I HAVE the honour to inclose the copy of a despatch which I have addressed to Mr. Consul-General Eldridge in reply to a despatch, of which he sent a copy to your Lordship, requesting instructions in reference to a notification that members of non-Christian sects liable to the conscription do not become exempted from service by embracing Christianity.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 154.

Sir H. Elliot to Consul-General Eldridge.

Sir,

Therapia, November 25, 1874.

I HAVE received your despatch inclosing an official notification that members of non-Christian sects liable to conscription will not be exempted from service on embracing Christianity, except upon the payment of the regular tax for exemption.

In reply to your request to be instructed whether you are to consider this notification as having the adhesion of Her Majesty's Government, and whether you are to abstain from interfering in such cases as may arise out of it, I have to observe that no adhesion or sanction from Her Majesty's Government appears necessary in reference to a notice of this nature, and that no interference on your part would be proper, provided the convert conscripts are fairly taken by lot, like the rest of their countrymen who had not changed their religion.

If, on the other hand, you should have reason to believe that they were arbitrarily called to military service on account of their having embraced Christianity, you will at once draw the attention of the Governor-General to what would constitute an unjustifiable irregularity, and unofficially remonstrate against it, reporting the circumstance to me at the same time.

I am, &c.

(Signed) HENRY ELLIOT.

No. 154.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, December 11, 1874.

WITH reference to my letter of the 4th instant, respecting the reception by the Sultan of the deputation from the Evangelical Alliance, I am directed by the Earl of Derby to transmit to you, for the information of the Council of the Alliance, the accompanying copies of correspondence which has taken place between his Lordship and the Turkish Ambassador at this Court on that subject.*

I am, &c.

(Signed) TENTERDEN.

No. 155.

The Rev. J. Davis to the Earl of Derby.—(Received December 12.)

My Lord,

*Evangelical Alliance, 7, Adam Street, Strand,
London, December 11, 1874.*

I AM desired by the Council of this Alliance to thank your Lordship for the communications made to them in the letters of Lord Tenterden of the 4th instant, and to express the gratification with which they have heard that it has been authoritatively denied, both at Damascus and Constantinople, that there was any foundation for the statement that orders had been issued by the Turkish Government for the suppression of Protestant schools in Syria. The Council also feeling a deep interest, in common with their fellow Christians in all lands, in the progress of sound and Christian education, rejoice to hear that schools may still be established throughout Turkey, on the observance of the same regulations as govern those already existing in that land.

With reference to the report received from Her Majesty's Vice-Consul at Damascus on the subject of the five Ansairiyeh Christians who had been brought as military prisoners to Damascus, I am requested to call your Lordship's attention to the circumstances narrated in my letter of the 1st instant, viz., their arrest in the district of Lattakia, the sudden and violent attack made by the Turkish soldiers on the mission and school premises, the destruction of property, the treatment of the owners (including some women), and the forced and, as it would appear, illegal enlistment of some of the men into the Turkish army at the time they were statedly engaged in teaching. If, as the Council are informed, this forced military service is avowedly in consequence of the Christian profession made by these men, and notwithstanding the legal exemption

* No. 130, Inclosure in No. 148, and No. 150.

of such persons as are heads of families, or are engaged in teaching, or who are willing to pay an exemption tax, then there would appear to be an infliction of wrongs upon these unoffending men, calling for the sympathy and remonstrance of their fellow Christians, and of the friends of justice and humanity everywhere.

The Council desire me further to call your Lordship's attention to the circumstance mentioned in Lord Tenterden's letter of the 30th ultimo, that these Ansairiyeh Christians were brought to Damascus as military prisoners, but for what cause they were treated as prisoners is not shown, nor is it even alleged that resistance had been offered, or that any charge of misconduct had been brought against them, nor does it appear that any conscription for the army was taking place in that district at the time.

I have, &c.

(Signed) JAMES DAVIS.

No. 156.

The Rev. J. Davis to Lord Tenterden.—(Received December 11.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, December 11, 1874.*

Dear Lord Tenterden,

PERMIT me to inform you that the Address to the Sultan has been engrossed, mounted, and suitably prepared for presentation to His Majesty, and that in a few days probably, immediately after Christmas, our deputation will leave for Constantinople.

I beg to thank you for mentioning to Lord Derby the suggestion I ventured to make about being allowed the honour of submitting the Address to the Queen for Her Majesty's inspection. Should Her Majesty be pleased to grant me the honour of an audience for the purpose, this mark of Royal favour would be a most valuable service to the object which is having the sympathy and combined support of Protestants of many lands.

Believe me, &c.

(Signed) J. DAVIS.

No. 157.

The Rev. E. Hutchinson to the Earl of Derby.—(Received December 14.)

*Church Missionary House, 16, Salisbury Square,
December 14, 1874.*

My Lord,

BY order of the Committee of the Church Missionary Society, I have the honour to transmit to your Lordship the accompanying Memorial and Memorandum on religious intolerance in Turkey.

I have, &c.

(Signed) ED. HUTCHINSON, Secretary.

Inclosure 1 in No. 157.

Memorial from the Church Missionary Society.

To the Right Honourable the Earl of Derby, Her Majesty's Secretary of State for Foreign Affairs.

The Memorial of the Most Reverend the Vice-Patron, the Right Honourable the President, Vice-Presidents, and Committee of the Church Missionary Society.

YOUR Memorialists would respectfully submit, for your Lordship's consideration that when, in 1856, the Sultan of Turkey conceded the Hatti-Humayoun, they were encouraged to extend their operations in the Ottoman Empire. Knowing, as they did, that this charter of religious liberty had been granted at the urgent requisition of England and France, in consideration of the enormous sacrifices these Christian Powers had made in support of the Ottoman Empire, your Memorialists had full reliance that the diplomatic engagements entered into by Turkey would be respected; and although they

have since been compelled in some cases to complain of the violent and arbitrary proceedings of Turkish officials, your Memorialists would acknowledge with thankfulness that your Lordship's predecessors in office have intervened with such good effect, that not only redress has been afforded to those who have suffered religious persecution, but, as in the case referred to in the Foreign Office despatch dated December 14, 1864, the Turkish Government were called upon to give fresh assurances that religious freedom should "not hereafter be assailed or restricted."

Your Memorialists are sorry to be obliged to solicit once again intervention in their behalf. In furtherance of the work in which the Christian Missionary Society is engaged it has been their practice, not only in the Ottoman Empire, but in other parts of the world, to establish schools, which are open to those who are willing to attend. Several schools have in this way been established by them in Palestine, and carried on for some years, not only without opposition of any kind, but to the marked satisfaction of the people, who frequently apply to the missionaries to open fresh schools. In accordance with a request of this nature a school has been recently opened by the Church Missionary Society at Acco, and your Memorialists have now to complain that this school was suddenly closed in an arbitrary manner by order of the Turkish Governor-General of Syria. It is the first time that the Turkish Government has closed a school in Palestine, and, as to the plea advanced that it should not have been opened without official permission, it is sufficient to state that such permission has not been required either in the case of schools opened by other denominations in Syria or of those belonging to the Church Missionary Society. It may be added that the opening of the new school at Acco had the concurrence of the Protestant Bishop of Jerusalem, agreeably to the terms of the Hatti-Humayoun.

Your Memorialists would further submit for your Lordship's consideration that this is no isolated case of unwarrantable interference with the work carried on by Protestant missionaries in Turkey; for, as your Lordship may have been informed through other channels, three native Protestant teachers of a school at Lattakia were suddenly seized, subjected to ill-treatment, and, on their refusal to abjure the Christian faith, were forcibly enrolled in the Turkish army, although by the practice in the Ottoman Empire they were not liable to military service, having paid the regular tax in lieu of service, and further, as teachers, having a claim to exemption. If under these circumstances Greek and Latin native Christians are not considered liable to military service, it is not unreasonable to ask why native Protestants, who are moreover teachers of schools, should be dealt with in an exceptional manner.

Again, your Memorialists would refer to another case, of which they have information from the Rev. R. H. Weakley, one of this Society's missionaries, in which a man named Mustapha, of Marash, his wife and son, have been imprisoned in consequence of their profession of Christianity, and when eventually released, they have not been allowed to return home, but have been placed under surveillance at Smyrna; meanwhile, Mustapha's three younger children are kept at Marash in a Mohammedan family, and compelled to attend a Mohammedan school.

It is true that the sufferers referred to here are members of congregations to which American missionaries minister, still on this account they are not the less entitled to support and sympathy, and your Memorialists would urge, that if the Turkish officials find that they can persecute with impunity those who have embraced the Protestant faith in one part of the Empire, they may not be slow to adopt the same policy towards those converts with whom your Memorialists are immediately connected. Indeed, indications of such a policy are apparent in the closing of the school at Acco, and also in the hindrances which are now, for the first time, in the way of printing the Holy Scriptures in the Turkish language. On this subject the Rev. Robert H. Weakley writes as follows:—"With regard to the printing of the Turkish Scriptures, we are told, after ten years of unquestioned liberty to print Scriptures and books concerning the Scriptures, that a special licence is necessary."

Your Memorialists would respectfully, but very earnestly, represent that all the acts referred to above are in direct violation of the very letter as well as of the spirit of the Hatti-Humayoun, and of the diplomatic engagements into which the Porte has entered with Great Britain. In a despatch dated January 9, 1856, to Lord Clarendon, Lord Stratford de Redcliffe wrote as follows on the advantages which would follow on the adoption by the Turkish Government of a more enlightened policy in place of the traditional exclusiveness which had previously characterized the administration of the Ottoman Empire:—

"We all in turn expressed a desire to bring the various classes of the Sultan's subjects into harmony and confidence with each other as a source of prosperity to the

Empire, whose Government would find its advantages, both internally and externally, in acting no longer on the principles of religious exclusiveness or predominance of race, but on those broader, sounder maxims which have only to be carried out with perseverance in order to produce a full measure of national unity and strength."

Your Memorialists, therefore, conceive that, in protesting against the reactionary policy which the Turkish Government have thought fit to adopt, they are consulting the best interests of the Turkish Empire, whilst at the same time it is obvious that without religious liberty the work in which your Memorialists are engaged cannot but be seriously hindered and impeded.

(Signed) A. C. CANTUAR, *Vice-Patron*
CHICHESTER, *President*.

(And 13 others.)

Church Missionary House, November 24, 1874.

Inclosure 2 in No. 157.

Statement respecting Religious Persecution in Turkey.

[See Inclosure 2 in No. 129.]

No. 158.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, December 15, 1874.*
I APPROVE the advice which your Excellency gave to the Grand Vizier with regard to the late proceedings of the Syrian authorities in entering the American missionary domicile in searching for deserters, as reported in your despatch of the 29th ultimo.

I am, &c.
(Signed) DERBY.

No. 159.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, December 15, 1874.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 11th instant, stating that the address which the deputation proposed to submit to the Sultan is ready for presentation, and that the deputation have arranged to leave for Constantinople directly after Christmas.

I am, &c.
(Signed) TENTERDEN.

No. 160.

Lord Tenterden to the Rev. J. Davis.

Sir, *Foreign Office, December 15, 1874.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 11th instant, upon the subject of the treatment of the Ansairiyeh Christians, a copy of which will be forwarded to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) TENTERDEN.

No. 161.

*Lord Tenterden to the Revs. W. Magill and J. Rogers.*Sir, *Foreign Office, December 18, 1874.*

I AM directed by the Earl of Derby to inform you that a copy of your letter of the 27th of October last, respecting the Ansairiyeh Christians, was transmitted to Her Majesty's Ambassador at Constantinople, and his Excellency's special attention was called to that portion of it from which it appeared that the promise given by the Turkish authorities respecting the soldier Daoud had not been kept.

His Excellency, in a despatch just received, presumes that it is the promise respecting the conscripts' freedom to attend divine worship to which you allude, and he reports that although there had been some delay in giving the necessary orders, the only difficulty in the matter had proceeded latterly not from the military authorities, but from the want of any service conducted in a language which Daoud understands.

Sir H. Elliot adds that it is incorrect to say that Daoud is undergoing penal servitude in the army for holding firm to his religion, for if he had recanted at once he would still have had to serve his time like other soldiers.

I am, &c.
(Signed) TENTERDEN.

No. 162.

*Lord Tenterden to the Rev. E. Hutchinson.*Sir, *Foreign Office, December 19, 1874.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 14th instant, respecting religious intolerance in Turkey, and inclosing a Memorial and Memorandum on the subject; and I am to request that you will be so good as to forward to me duplicate copies of these papers, in order that they may be communicated to Her Majesty's Ambassador at Constantinople.

I am, &c.
(Signed) TENTERDEN.

No. 163.

*Sir H. Elliot to the Earl of Derby.—(Received December 21.)*My Lord, *Therapia, December 11, 1874.*

AFTER all that has been said of late about the religious persecution supposed to be going on in this country, I venture to forward to your Lordship a further Memorandum from the chief of the Protestant community upon the position of converts from Mohammedanism, and their treatment by the Imperial Government.

I would repeat that there is no one so well qualified as this gentleman to speak with authority upon the subject. It is his duty, from which he does not shrink, to represent to the Porte every complaint which arrives from members of his community from all parts of the Empire, and his evidence may be received with entire confidence.

In the conversation which I had with him when he gave me this paper, he gave me some details respecting the man Mustapha of Marash, whose case has been so prominently brought forward.

It appears that he is no recent convert, but remained with his wife as Christians some time at Constantinople about ten or twelve years ago, and he would have continued to live here if any means had been found for letting him earn the barest livelihood, for he dreaded going back to Marash, on account of the known fanaticism of the people.

After some time, that which he had anticipated occurred, and being assailed by the fanatics he was taken by the authorities and sent to Aleppo, but not a word can be said in justification of his having been treated as a criminal both on the road and on his first arrival here.

The Protestant Vekil attributes what has occurred in his case, and in that of the other man Ahmed, mentioned in the Memorandum, as entirely due to their not having on their baptism assumed a Christian name.

Each of them is called by one of the seven names given to the Prophet as specially

marking some of his attributes, and the Turks resent those names being borne by a renegade, and it is difficult to see what is to be gained by courting this resentment instead of acting as the majority of the converts do.

I have learnt from another source some rather curious details bearing upon the taking of recruits for the military service from non-Mussulman populations.

It seems that in Lhazistan, in Asia Minor, there is a population always known to be Christians, but who did not make any public profession of that faith till after the Crimean War; and the rule which followed in regard to them has been that such of them as were born before their parents professed themselves Christians were obliged to serve, while those born after their parents' profession were exempt.

According to this rule the enforcement of the conscription in the case of the Ansairiyeh converts seems to have been perfectly in accordance with existing practice.

I have, &c.

(Signed) HENRY ELLIOT.

Inclosure in No. 163.

Memorandum.

WHEN Protestant missions were first introduced into this country, their general work, and their agents, or missionaries, for many years, were regarded not only as harmless, but even as benevolent, and their followers were looked upon with no feeling of animosity. As soon, however, as they began to organize religious bodies, and take aggressive steps, this at once excited sectarian hatred, and raised persecution against the followers of those who could no more be expelled from the country. This, however, did not last very long, on account of the prompt repressive measures adopted by the Imperial Government.

These measures were intended to give full liberty to the Protestants, and indeed, went far in giving character and influence to Protestantism itself. All the subsequent events which led to the present state of things, are so well known to your Excellency, that I do not deem it necessary to repeat them here.

I now pass to the second point, perhaps not so well known, viz., to the question whether converts from Islamism to Christianity are allowed liberty of conscience, or persecuted.

As far as actual facts go, there are instances in which proselytes were more or less subjected to injury, while, on the contrary, there are many more instances in which the greatest toleration was practised towards them. Indeed, Christian proselytism among the Musulmans has not yet assumed such a magnitude as either to excite persecution or claim the right of being recognized as a body; as it stands at the present day, it consists of a few isolated cases, each of which must of necessity be judged by itself, and on its own merits.

Of all the Mohammedans baptized, who, as far as I know, are from ten to fifteen in number, Selim Effendi was the first; he was christened in Malta as Edward Williams, together with his wife and children. This man was allowed to profess his new faith in the boldest manner. He even preached Christ to his nation as freely and as publicly as the most zealous advocate of religious toleration could wish. Yet, I do not know if he was ever annoyed beyond a few hours detention. Kruir, once the bold and active colporteur, is even now practising law in the various Courts of the Government; and although he makes no secret of his religious faith, yet he has never been molested for it. Hameli Effendi, nephew of Kiamil P., President of the Council of State, was baptized, retaining his Mussulman name; but not very long after he returned to his former persuasion, his relatives having some way or the other taken offence at the missionaries.

Shakir Effendi, another convert, died in his own family, and was buried as a Moslem.

Mahmud was married to an English lady in England, and entered the service of the Propagation Society. He died a Christian, and was never interfered with by the Government.

Martui and Ali were Persian converts, and both proved worthless.

Aali Effendi, while employed in the Protestant Chancery, became baptized; but now he is as good a Moslem as any of his non-baptized countrymen.

Mustafa, of Marash, was here twelve years ago, with his wife and children,—a good Christian indeed; but neither friends nor enemies taking much notice of him, he was obliged to return to Marash.

Ahmed, of Cesaræa, was baptized, with his wife and children ; but after some years he was exiled to Adrianople during the agitation which prevailed, provoked by an incorrect rumour that 75,000 Moslems had embraced Protestantism.

Melhon, the renegade (convert from Mohammedanism), with his Moslem wife and children, born in Islamism, though arrested, and even detained a few days, was yet soon released ; and now he is as free as any man, having his wife and children by him.

Abraham, baptized by the Armenians, is very well known as such by his countrymen, but he has never complained of being persecuted ; several others have been baptized by the Armenians ; possibly as many others by the Greeks and Roman Catholics ; but we have not heard of any serious annoyance being suffered by any of them.

Both Government and people know perfectly well that there are places opened in this city where Christian religious service is held, expressly for Mohammedan converts ; and yet no one has ever heard of their being attacked, or otherwise molested.

Colportage and other missionary operations have been going on as freely as could be allowed in any civilized country. However, some recent events, and their causes, are so well known to your Excellency, that I could not venture to add my own meagre statement to them.

As to the question of the registration of converts from Islamism in our own books, allow me to state that although the fact of our Firman merely authorizes us to receive those who separate themselves from the jurisdiction of the Patriarchs, still we have registered the whole of the above-mentioned. Williams' family, who even hold property under their new names, although his real character is very well known by all concerned.

Knior is likewise registered in our own books, as also Melhon the renegade. But as to registering Ahmed, Mahmud, or Mustafa, under their Mussulman names, we have good reason to hesitate ; for to propose to register Christian Ahmed in the Government register, of which ours is but a copy, would imply, on our part, an unnecessary freedom, especially when the responsible party has not been consulted previously.

I hope your Excellency will not blame us if we question the soundness of the policy of retaining Mohammedan names in the converts, whose registration as such would excite the jealousy and ill-will of the dominant race against our community so ill protected ; while, on the other hand, the refusal to register these converts puts them in the position of outlaws. Now, what imaginable good could overbalance the certain calamity which would thus be invited ?

Indeed, if other people can afford to put to test their own extreme rights, they should do it at their own expense ; we, on our part, do not feel prepared to overtask the clemency of the Imperial Government where there is a way to avoid it. Those who have put the Christian Ahmed in the position of an outlaw are themselves answerable for it.

As for the military service, which has been occasioning so many complaints, your Excellency may be aware that soon after the proclaiming of the Hatti-Houmayoun, the capitation tax (" haraj ") was abolished upon the principle of equality ; consequently, the Christian subjects of His Majesty the Sultan came virtually under the same military obligations to which Moslems were subjected. However, through an understanding between the Sublime Porte and the Chiefs of the Christian communities, the following arrangement was made, viz., that, reckoning one out of 180 of the male population liable to military service, they agreed to pay 5,000 piastres, the amount fixed for exemption for every 180 men, or 28 piastres per head, to be distributed and collected by each community among its own members. In this way it is clear that the Government has nothing to do whatever with the individual thus taxed. From the character of this tax it is evident that this regulation is not applicable in the case of those who were already exempt from the capitation tax, and, as Moslems, were enjoying the advantages of the dominant race, and subjected to military service, the Sublime Porte not having taken any engagement towards them. However, your Excellency can best judge whether they could claim exemption upon religious grounds unless the Porte should impose upon them duties which are inconsistent with their Christian faith and obligations.

In regard to the right of proselyte parents to their children under age, the law of the Koran is very distinct. It says : " If any non-Moslem embrace Islamism, his children under age become at once Mussulmans, though one of his parents remain a non-Moslem."

As to whether the offspring of renegades (converts from Mohammedanism) should be left in charge of their parents or not, the Shiriyat, as far as I could ascertain, is silent on the point, for it does not suppose any such persons to be living, as all renegades are *de facto* condemned to be beheaded.

But now that the head of the renegade is spared, and he is allowed to live by the

power of Treaties, whether this would restore to him his natural right upon his offspring or not, my scanty knowledge does not allow me to say more upon the question.

No. 164.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, December 21, 1874.

I APPROVE the course which your Excellency proposed to take with regard to the suggestions made by the Protestant Vakil for the redress of the grievances complained of by his community, as reported in your despatch of the 26th ultimo.

I am, &c.
(Signed) DERBY.

No. 165.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, December 21, 1874.

I HAVE to approve the despatch addressed by your Excellency to Mr. Eldridge, a copy of which was inclosed in your despatch of the 25th ultimo, with reference to the notification that members of non-Christian sects liable to the conscription do not become exempted from service by embracing Christianity.

I am, &c.
(Signed) DERBY.

No. 166.

The Rev. E. Hutchinson to the Earl of Derby.—(Received December 22.)

*Church Missionary House, 16, Salisbury Square,
December 21, 1874.*

My Lord,

I AM directed by the Committee to thank your Lordship for your letter of the 4th instant, informing us that his Highness Issad Pasha has stated to Her Majesty's Vice-Consul at Damascus that there was no foundation for the statement that orders had been issued by the Turkish Government for the suppression of all Protestant schools in Syria, and further informing us that, on the 20th ultimo, Her Majesty's Ambassador at Constantinople had reported that the Porte had intimated through the press that there was no intention of closing the schools.

The closing of the Society's school at Acco took place on the 3rd of September last, as detailed in the letter of the Rev. J. Zeller to Mr. Eldridge, the Consul-General at Damascus; and although some time must have elapsed since the attention of His Highness Issad Pasha was called to the subject, we have not, up to the present time, heard from Mr. Zeller that permission has been granted to reopen the school.

I also have the honour to acknowledge the receipt of your Lordship's letter of the 19th instant, in compliance with which I beg to forward duplicate copies of the Memorial and Memorandum forwarded on the 14th instant.

I have, &c.
(Signed) EDW. HUTCHINSON, *Secretary,*
Church Missionary Society.

No. 167.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, December 4, 1874.

I FORWARD to your Excellency the inclosed Memorial addressed to you by the British and Foreign Bible Society,* with respect to the sale and distribution of the Bible

* Already sent to Sir H. Elliot by Lord Shaftesbury; see No. 128.

in Turkey; and I have to request your Excellency to inform me how this matter now stands.

Her Majesty's Government trust that the question has already been satisfactorily settled.

I am, &c.
(Signed) DERBY.

No. 168.

Sir H. Elliot to the Earl of Derby.—(Received January 5, 1875.)

My Lord,

Therapia, December 23, 1874.

I HAVE learnt incidentally that the children of the convert Mustafa of Marash had, with the connivance of the authorities, been enabled to join their parents at Smyrna.

Not having been informed of this fact by those who had first represented the case to me, I was continuing to urge upon the Porte the hardship of maintaining the separation, without being aware that the grievance was already removed.

I have, &c.
(Signed) HENRY ELLIOT.

No. 169.

The Rev. J. Davis to the Earl of Derby.—(Received January 5.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, January 4, 1875.*

THE Rev. James Davis presents his compliments to the Earl of Derby, and begs to inclose his Lordship copies of the address to the Sultan as amended and prepared for presentation. Copies have also been forwarded to Constantinople.

Inclosure in No. 169.

To His Imperial Majesty the Sultan Abdul Aziz Khan.

May it please your Majesty,

THE undersigned Memorialists, members of different nationalities, and of various Christian Churches united in the Evangelical Alliance by the bonds of a common faith, venture to approach your Imperial Majesty with the expression of their highest respect.

They gratefully acknowledge the valuable concessions made to the cause of civil and religious liberty, which have shown the enlightened sentiments of your Imperial Government. They refer especially with much satisfaction to a declaration made on a former occasion to the representative of Great Britain that "henceforward neither shall Christianity be insulted in my dominions, nor shall Christians be in any way persecuted for their religion;" and to the subsequent Hatti-Sheriff, declaring that "no subject of His Majesty the Sultan shall be hindered in the exercise of the religion that he professes, nor shall be in any way molested on that account." The proclamation of a policy so eminently just and liberal was welcomed by all the friends of the Ottoman Empire, not only as affording a substantial basis for the more intimate alliance between that Empire and foreign Christian Powers, but also as affording a sure ground of hope for the future prosperity of the Empire itself.

Your Memorialists have learned, however, with feelings of deep regret that in some recent instances your Majesty's benevolent intentions have been frustrated, and that the adoption of the Christian faith by some of your Majesty's subjects has, contrary to the above-mentioned Hatti-Scheriff, been visited with cruel treatment on the part of certain Provincial Magistrates, who have thus acted in opposition to your Majesty's righteous and benevolent declarations.

They allude to the cases already brought before your Majesty's Government.

Three Ansairiyeh converts to Christianity, who had been living peaceable and blameless lives as teachers in a Christian mission school, were, in September 1873, suddenly seized and sent to Damascus, where they were thrown into prison, and (we are credibly

informed), whilst there, repeatedly beaten, reviled, denied food and drink, and otherwise cruelly treated. No crime or offence against the law was charged against them, but on their refusal to abjure the Christian faith they were compulsorily enrolled in the army and refused the exercise of Christian worship.

Your Memorialists are informed that, in consequence of representations made on behalf of these converts, orders have been given for their removal to Constantinople; but such removal, whilst affording possibly some amelioration to their condition, would nevertheless involve banishment from their homes and families, and from the honourable employments in which they were engaged.

Another case is that of a father and son, who, because they avowed themselves Christians, were taken by the police from their homes at Marash, bound, and brought under a guard to Aleppo, from whence they were subsequently removed to Constantinople and put in prison. They have since, with the wife and three younger children, been banished to Smyrna, and forbidden to return to their home at Marash.

Your Memorialists feel constrained to submit to your Majesty's notice these points of injurious treatment of individuals for exercising their personal right to believe and worship according to their own free conscience: treatment so contrary to your Majesty's intentions, and so much at variance with the enlightened sentiments of civilized nations.

Assured of your Majesty's benevolent disposition, and mindful of the gracious reception which deputations from this Society have received on previous occasions from European and Oriental Sovereigns, and the gratifying results arising therefrom, your Memorialists feel encouraged to approach your Imperial Majesty on the present occasion. They humbly, but earnestly, entreat that such measures may be taken as may appear to your Majesty most fitting to redress the wrongs inflicted on your Majesty's Christian subjects, as above mentioned; and that the officers of your Majesty's Government, in the Provinces and elsewhere, may be charged to preserve free from molestation, and secure in the enjoyment of their religious privileges, any individuals whomsoever, professing Christianity, over whom, by your Majesty's appointment, they exercise authority.

(Signatures follow.)

No. 170.

The Rev. J. Davis to the Earl of Derby.—(Received January 5.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, January , 1875.*

My Lord,

I AM instructed by the Council of this Alliance to thank your Lordship for the letter, dated the 11th ultimo, accompanying copies of correspondence which have taken place between your Lordship and the Turkish Ambassador at this Court.

The Council desire me to express their deep regret that the Turkish Government, either through want of accurate information of the facts connected with the outrages committed on the Christian converts both at Lattakia and at Marash, or through a disinclination to admit their responsibility, persist in a denial of the persecution clearly involved in the sufferings endured by these Christian men and their families.

The Council, with the evidence before them, borne out by satisfactory testimony from witnesses in the several districts, are impressed with the importance of the step they are about to take, with your Lordship's concurrence, in forwarding an address to His Imperial Majesty the Sultan, by a deputation charged with the presentation of it in person.

I am desired to inform you that a deputation, consisting of Lord Francis Conyngham, M.P., the Honourable and Reverend Edward V. Bligh, General Aylmer, R.N. Fowler, Esq., Samuel Gurney, Esq., Jabez Johnson, Esq., and myself, intend leaving Marseilles for Constantinople, on the 16th of the present month, and expect to arrive at the latter city on the 23rd instant.

The Council and signatories to the address solicit the favour, in addition to the valuable services already rendered by your Lordship, sending out instructions to Her Majesty's Ambassador, to ask for an audience with His Imperial Majesty at the earliest convenient time after the arrival of the deputation; and that his Excellency will further oblige them by accompanying the deputation and introducing them on the occasion.

The Council sincerely trust that the steps they are taking, in combination with

Christian brethren of different nations will, by the Divine blessing, successfully strengthen the representations already made by Her Majesty's Government on the subject.

I have, &c.
(Signed) JAMES DAVIS.

No. 171.

Sir H. Elliot to the Earl of Derby.—(Received January 6, 1875.)

My Lord, *Therapia, December 24, 1874.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch inclosing correspondence with the Evangelical Alliance respecting the proposed address to the Sultan upon the supposed religious persecution in Turkey.

I have likewise received copies of the address from the Rev. S. Herrick, who has requested me to forward one copy to Aarifi Pasha, which I have promised to do.

The title of the address, which would have been regarded as offensive, has been removed; but the inaccuracy of the statement regarding the Ansairiyehs is retained.

However, when the deputation arrives, the Porte will have no difficulty in convincing the members that the good faith of the Alliance has been imposed upon by reports from correspondents writing with too much zeal, or with too little care, in their statement of facts.

I have, &c.
(Signed) HENRY ELLIOT.

No. 172.

Mr. Bourke to the Rev. J. Davis.

Sir, *Foreign Office, January 7, 1875.*

I AM directed by the Earl of Derby to transmit to you, for the information of the Council of the Evangelical Society, a copy of a Memorandum which Her Majesty's Ambassador at Constantinople has received from the Chief of the Protestant community in Turkey respecting the position of converts from Mohammedanism and their treatment by the Imperial Government.

I am, &c.
(Signed) ROBERT BOURKE.

No. 173.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, January 8, 1875.*

WITH reference to my despatch of the 11th of December, I transmit, for your Excellency's information, the accompanying copy of the address as amended and prepared for presentation to the Sultan by a deputation from the Evangelical Alliance, which I have received from the Secretary to that Society.*

I am, &c.
(Signed) DERBY.

No. 174.

Mr. Bourke to the Rev. J. Davis.

Sir, *Foreign Office, January 8, 1875.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 4th instant inclosing copies of the address as amended and prepared for presentation to the Sultan by a deputation from the Evangelical Alliance.

I am, &c.
(Signed) ROBERT BOURKE.

* Inclosure in No. 169.

No. 175.

Mr. Bourke to the Rev. J. Davis.

Sir,

Foreign Office, January 11, 1875.

I AM directed by the Earl of Derby to acquaint you that Her Majesty's Ambassador at Constantinople reports that the children of the convert Mustafa of Marsah had, with the connivance of the authorities, been enabled to join their parents at Smyrna.

His Excellency adds that not having been informed of this fact by those who had first represented the case to him, he was continuing to urge upon the Porte the hardship of maintaining the separation, without being aware that the grievance was already removed.

I am, &c.

(Signed) ROBERT BOURKE.

No. 176.

Sir H. Elliot to the Earl of Derby.—(Received January 13, 1875.)

My Lord,

Constantinople, December 31, 1874.

YOUR Lordship has already been informed that the Governor-General of Syria had put into the Christian Dragoon Regiment the two Ansairiyeh conscripts, who had deserted, and were afterwards recaptured.

In reply to an inquiry which I yesterday directed Mr. Sandison to make of the Grand Vizier, His Highness replied that he had acted upon the suggestion I had made to him, and had given orders for the third man, who had been brought up here, to be sent to the same regiment, where he will find his former comrades, and otherwise be on going to various Christian sects.

I have, &c.

(Signed) HENRY ELLIOT.

No. 177.

Mr. Bourke to the Rev. J. Davis.

Sir,

Foreign Office, January 13, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter, stating that it is the intention of the deputation of the Evangelical Alliance to leave this country for Constantinople on the 16th instant, requesting that Her Majesty's Ambassador at Constantinople may be instructed to procure an audience from the Sultan, at which the Petition of which they are the bearers may be presented to Her Majesty.

In reply, I am to inform you that Sir H. Elliot was instructed on the 30th of November last to do what he properly could to obtain an audience for the deputation, and Lord Derby has no doubt that his Excellency will do all in his power to meet the wishes of the Society. At the same time the Alliance must understand that Her Majesty's Government cannot make a formal diplomatic request to the Porte for an audience to be granted to a deputation of private persons, however much Her Majesty's Government may sympathize with the good intentions by which they may be actuated, nor can Her Majesty's Government be responsible for the statements contained in the Address which it is proposed to present to the Sultan.

I am, &c.

(Signed) ROBERT BOURKE.

No. 178.

M. de Boinville to the Earl of Derby.—(Received January 14.)

My Lord, *Evangelical Alliance, 7, Adam Street, Strand,
London, January 14, 1875.*

I HAVE the honour to acknowledge the receipt of your Lordship's communications of the 11th and 13th instant, addressed to the Secretary to the Evangelical Alliance.

Both of them have been forwarded to him, and will reach him at Marseilles before the departure of the deputation.

I have, &c.
(Signed) C. A. CHASTEL DE BOINVILLE,
Assistant Secretary.

No. 179.

Mr. Bourke to M. de Boinville.

Sir, *Foreign Office, January 16, 1875.*

LORD TENTERDEN, in his letter of the 4th ultimo, informed you, by direction of the Earl of Derby, that four of the Ansairiyeh Christians had been enrolled in the Christian Dragoon Regiment in Syria, and I am now to state that Her Majesty's Ambassador reports that the man who had been brought to Constantinople has, at his Excellency's suggestion, been sent to join the same regiment, where he will find his former comrades and others belonging to various Christian sects.

I am, &c.
(Signed) ROBERT BOURKE.

No. 180.

M. de Boinville to the Earl of Derby.—(Received January 18.)

My Lord, *Evangelical Alliance, 7, Adam Street, Strand,
London, January 18, 1875.*

I HAVE the honour to acknowledge the receipt of your Lordship's communication of to-day, informing the Secretary of this Alliance that the man Dawoud had been sent to join a Dragoon regiment in which are his friends and men of all religions. Your Lordship's communication has been forwarded to the Secretary, who is expected to arrive with the deputation at Constantinople on the 23rd instant.

I have, &c.
(Signed) C. A. CHASTEL DE BOINVILLE,
Assistant Secretary.

No. 181.

Sir H. Elliot to the Earl of Derby.—(Received February 9.)

My Lord, *Constantinople, January 28, 1875.*

THE Deputation of the Evangelical Alliance arrived here a few days ago.

I had the day before informed Savvet Pasha that they were coming, and mentioned that his predecessor had said that although the Porte could take no engagement on the subject, he did not doubt that the Sultan would consent to grant them an audience.

He replied that he did not understand how Aarifi Pasha should have held out any such expectation, as he thought it in the highest degree improbable that it could be fulfilled.

I said that I must be perfectly understood as not giving any official support to the Deputation, but as a very strong feeling existed in England on the subject of their mission, I trusted His Majesty would not refuse to receive them and to hear what they had to say.

He said that he would confer with the Grand Vizier, but did not expect his Highness to take a different view from his own upon the subject.

On Saturday the Deputation called upon me, and I told them how the matter stood, and arranged that they should call upon Safvet Pasha, accompanied by Mr. Sandison, of whose Report of the interview I have the honour to inclose a copy.

There is, I imagine, no example of the Sultan having received a Deputation, and that such an innovation should be attempted for foreigners on behalf of His Majesty's own subjects is regarded by most Turks with the utmost surprise, and if the Government refuse to advise His Majesty to grant the audience they will certainly be supported by public opinion, not only from the side of the fanatical and bigoted, but from that of the most tolerant, who are equally jealous of all foreign interference in their internal affairs.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 181.

Mr. Sandison to Sir H. Elliot.

Sir,

Pera, January 28, 1875.

IN compliance with your Excellency's instruction of the 25th instant, I introduced to-day to Safvet Pasha, the Minister for Foreign Affairs, the members of the Deputation of the Evangelical Alliance.

Mr. Davis, the Secretary, stated the object of the visit by reading out to his Excellency a summary of the religious grievances which made the Deputation feel so anxious to present in person to His Majesty the Sultan the Address of which they were the bearers, containing the signatures of some of the most influential and distinguished parties in England.

In my turn, I read to the Minister a French translation of your Excellency's instruction, of which I left him a copy, after having called his attention to the concluding paragraph, in which you express the hope that two of the principal members of the Deputation may at least be received by the Sultan.

In reply to the grievances alluded to, his Excellency stated,—

1. That His Imperial Majesty's Government, which piqued itself upon being one of the most tolerant in Europe, had shown no disposition whatever to alter its policy in regard to religious matters, and that being sincerely desirous to act more than ever in strict conformity with pledges and promises which secure perfect religious toleration to all the Sultan's subjects, it felt equally desirous of confirming and maintaining the privileges or concessions which allowed the printing and free circulation of the Bible in the country.

2. That even admitting that isolated cases of persecution had taken place in remote parts of the Empire, it was indeed often difficult, under the peculiar circumstances of the country, for the Central Government to prevent them.

3. That no persons liable to the conscription by the existing law of the Empire could, under any circumstances, enjoy exemption from military service, much less on religious grounds, and that he therefore wished it to be clearly understood that what he had just said applied in particular to the case of the Ansairiyeh conscripts.

The question of an audience of the Sultan being next mooted, his Excellency went on to say that the Sultan's Government perceiving there was no real cause for it, could not well entertain the demand of the Deputation on that score. This led to various representations on the part of the Deputation, which laid before his Excellency in a very strong light the bad effect, if not the unpleasant consequences, that a refusal for an audience would produce in England, in presence of the misapprehension which already exists there with regard to the disposition of the Imperial Government and of the Musulman population in matters of religious toleration.

As Safvet Pasha continued to hold out no encouragement for pressing the question of the audience, the Deputation went the length of telling his Excellency that since public opinion would go so strongly against Turkey in all Protestant countries, such as America, Germany, and England in particular, where public feeling and opinion had such weight with the Government, the refusal for the audience so generally desired (in England) could hardly fail to influence and affect the friendly relations which have hitherto subsisted between the Sultan's Government and that of Her Majesty the Queen.

It may, however, be gratifying to hear that Safvet Pasha, though deeply regretting an audience of this nature, as likely to establish the most undesirable precedent for the future demands of other nations in similar circumstances, ended by showing a better

disposition to consider your Excellency's representations, as well as the request of the Deputation for the audience in question, which he would talk over with the Grand Vizier, and let me have an answer on the subject by Thursday next.

I have, &c.
(Signed) A. SANDISON.

No. 182.

Sir H. Elliot to the Earl of Derby.—(Received February 9.)

My Lord, Constantinople, January 28, 1875.

WHEN the Evangelical Deputation called upon me on Saturday, they said that if the Sultan consented to receive them, they hoped that I would myself present them to His Majesty. I said that I regretted that I could not do so.

It is, in the first place, not the usual habit here for an Ambassador to make presentations in person, and I must, moreover, avoid everything that might look like an official interference on my part in matters relating to the Sultan's subjects, or that even implied that I either recognized the necessity for such an Address, or concurred in all its statements.

If, moreover, the Sultan, as was probable, were to turn to me and inquire what my own opinion was, it would be impossible for me to avoid saying that I believed the conclusions of the Alliance to have been derived from exaggerated and inaccurate reports, and that although there had certainly been one or two cases in which Christians had been treated with cruelty, there was nothing which, in my opinion, at all resembled a religious persecution.

I have, &c.
(Signed) HENRY ELLIOT.

No. 183.

The Earl of Derby to Sir H. Elliot.

Sir, Foreign Office, February 12, 1875.

I HAVE to convey to you my approval of the assistance which you rendered to the Deputation of the Evangelical Alliance, as reported in your Excellency's despatch of the 28th ultimo.

I am, &c.
(Signed) DERBY.

No. 184.

Sir H. Elliot to the Earl of Derby.—(Received February 15.)

My Lord, Constantinople, February 2, 1875.

I HAVE the honour to inclose the copy of a letter which I wrote this morning to the deputation of the Evangelical Alliance, informing them that the Porte declined to reconsider the resolutions respecting their mission, with which I had already caused them to be acquainted.

Before the letter had been forwarded to them, the gentlemen of the deputation called upon me, and informed me that they had resolved upon not intrusting the Address to the Sultan's Ministers for delivery to His Majesty; and as they proposed leaving Constantinople in the afternoon, they asked me if I would allow it to be deposited in Her Majesty's Embassy, to which I at once assented.

Mr. Davis, the Secretary of the Evangelical Alliance, in communicating to me the resolution of the deputation, not to give the address to the Sultan's Ministers for transmission to His Majesty, alluded to the expectation which had been held out to me by Aarifi Pasha, that the Sultan would not refuse to receive them; and stated, that if it had not been for their reliance upon this assurance, the deputation would not have left England.

I considered it right to observe to Mr. Davis, that although Aarifi Pasha's language had given them a reasonable expectation of being received by the Sultan, as I had only

spoken to his Excellency in consequence of an intimation that the deputation was coming, he appeared to me to have gone a little too far in stating that they had done so in consequence of the Minister's language.

It rested, I said, entirely with the deputation, and not with me, to decide what they should do with the Address, of which they had been the bearers; but it was essential that they, as well as those they represented, should distinctly understand that the Porte had not refused to receive it, but had merely declined to allow it to be conveyed to His Majesty in an unusual manner.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 184.

Sir H. Elliot to the Deputation of the Evangelical Alliance.

Gentlemen,

Constantinople, February 2, 1875.

I REGRET to have to inform you that the Porte declines to modify the resolution already communicated to you by Mr. Sandison.

The Sultan having been duly informed of your arrival, and of the object of your mission, left it to his Ministers to follow the course which they might think proper; and they do not consider it expedient to recommend His Majesty so great an innovation upon established usage as to consent that an Address to His Majesty in reference to matters belonging to the internal administration of his Empire should be personally delivered to him at an audience granted to a foreign deputation.

The Porte, in declining to accede to your request for an audience, are anxious to disclaim all intention of showing the slightest discourtesy to yourselves, or disrespect to those who signed the Address; but they have felt it incumbent upon them to avoid establishing a precedent likely to be productive of much inconvenience.

Although you have been denied the privilege of personally presenting the Address to the Sultan, you may at least have the satisfaction of feeling that the principal object of your mission will have been attained.

The evidence that has been afforded of the indignation with which anything approaching to religious persecution is regarded by the best friends of Turkey cannot fail to have a beneficial effect upon the Ottoman authorities throughout the Empire, and the Government will be desirous of preventing them from giving cause for further remonstrance.

I am, &c.
(Signed) HENRY ELLIOT.

No. 185.

Sir H. Elliot to the Earl of Derby.—(Received February 15.)

My Lord,

Constantinople, February 3, 1875.

AT the present moment when the case of the three Ansairiyeh converts to Christianity is attracting so much attention, the following account of the tribe to which they belong, derived from a letter from the Rev. Mr. Beattie, an American missionary, to Mr. Baker, the United States' Minister here, may be found not uninteresting.

The Ansairiyeh or Nussairiyeh chiefly inhabit the country on the seaboard extending from Tartous, or the northern termination of Mount Lebanon, to Adana in the regions of the Taurus, embracing a probable area of from 1,000 to 1,200 square miles. They have occupied these mountain-ranges from time immemorial, and are designated among historians by the repulsive name of assassins. Though their nature has been greatly modified by time and other causes, they still retain much of their ancient character for cruelty, dishonesty, and revenge. They are divided into tribes, and in many of their peculiar habits are said strikingly to resemble the Indians of Western America. They are treacherous and lazy, and passionately fond of hunting. The men buy their wives, who spend a life of servitude with their indolent husbands but little better than the bondage of slaves.

It would be difficult from any trustworthy historical data in our possession to form an accurate judgment as to the origin of these people. Judging, however, from the superstitious incongruities of their religion, one would naturally be led to conclude that it must be mixed. They are not Mohammedans, though they nominally accept the

Koran in addition to their own religious books, and observe the rite of circumcision in common with Mohammedans and Jews. They are pagans, worshipping the heavenly bodies as much as ever they were adored by the ancients. They are fire-worshippers also, and do peculiar honour to this element at one of their state-feasts. Holy places or tombs of departed worthies are conspicuous on mountain-peaks or beside some sacred grove, probable relic of the old Baal worship of the country. These are their shrines of devotion, their oracles, their altars, and their gods; at them they worship, pay their vows, and take counsel, and by them they swear. Property, which elsewhere would have no security against the avarice and cupidity of the robber, will never be molested within the precincts of a holy place.

The Ansairiyeh worship the Caliph Ali, and are divided into two sects, called the Komareen and Shemseen, that is, Moonites and Sunites, because one sect worship the moon as Ali, and the other worship him in the sun. They are fatalists, and believe in the old Pythagorean doctrine of the transmigration of souls; and to crown all, this motley faith is intrenched in a bulwark of secrecy. The sect is a secret society, and its religion a secret, into the mysteries of which none are received until sworn pledges have been given of a purpose never to divulge.

A more legitimate field for missionary enterprise can hardly be imagined than that which is offered by this degraded population.

I have, &c.
(Signed) HENRY ELLIOT.

No. 186.

Sir H. Elliot to the Earl of Derby.—(Received February 15.)

My Lord,

Constantinople, February 3, 1875.

THE inclosed reports from Mr. Sandison will inform your Lordship of the steps taken by Her Majesty's Embassy with reference to the deputation of the Evangelical Alliance.

I had instructed him to put himself in communication with them, and to make Safvet Pasha aware how advisable it was that he should do all in his power to comply with the wishes of the representatives of public opinion, as testified by the signatures to the Address, and I several times myself spoke in the same sense to his Excellency.

Upon the question of allowing the Address to be presented to the Sultan by the deputation, Safvet Pasha never showed any sign of giving way, but upon that relating to the Ansairiyehs, his Excellency's language was at one time such as to lead to hope that they might be discharged from the Army.

This was, however, overruled on account of military considerations, which were held to render it impossible.

The statement of the Grand Vizier that the men had drawn their conscription papers three years before, took me by surprise, as I had not previously heard it advanced.

Should it prove correct, it will certainly relieve the Porte from the accusation of the of the illegal enlistment of these men.

They may, as represented by the deputation, have been entitled to their exemption from service as heads of families or for other causes, but no one is here authorized to presume upon his supposed exemption, which must be formally recognized by the proper authorities.

He is bound within a certain period to present himself before those authorities, and to state the grounds upon which he claims it, and, failing to do so, he is ever after liable to be taken, when no attention is paid to considerations which would have been valid if brought forward at the proper time, and he is regarded simply as a deserter.

The same rule prevails, I imagine, in other countries where the conscription is in force, and its strict maintenance is here considered indispensable.

Much stress has been laid on the fact that no conscription had been going on when the men were seized, but if they were in reality in the category of defaulters, as now reported by the Grand Vizier, the argument is of no force.

I have represented to Safvet Pasha, and shall continue to do so, that considering the exhibition of public sympathy provoked by the undoubtedly cruel treatment to which those men were exposed after their enlistment, the Porte should consider it as due to the credit of the Sultan's Government to give satisfactory evidence that they had been legally enrolled in the army.

With regard, therefore, to these men I can only repeat that, although the evidence of their ill-treatment at Damascus appears to me conclusive, that of the illegality of their enlistment is not equally so.

Their right to exemption on the ground originally advanced, of their having adopted the Christian faith, could certainly not be maintained, and the Deputation repeatedly told me that they did not put it forward; but I regret that, even in the address to the Sultan, it should have been thought proper to affirm that it was in consequence of their refusal to abjure Christianity that the men were enrolled.

While the unconverted Ansairiyehs are regularly taken for the army, the enrolment of the converts from that tribe cannot be stated as being resorted to on account of their adoption of Christianity.

Importance had also been attached to alleged receipts for the exemption tax paid by the conscripts; but independently of the fact that, as above stated, they should have produced these in due time before the proper authorities, the documents themselves, of which I have the honour to inclose a copy, do not appear to bear the character that had been attributed to them, for they amount to no more than an authorization to pay their "verghi" and other taxes to the district of their domicile instead of to that of their origin.

The "verghi" is an ordinary tax, and not the tax for exemption from military service.

The only other case, besides that of the Ansairiyehs, which the Deputation have brought forward as evidence of a religious persecution, is that of the convert Mustapha, of Marash, respecting which your Lordship is already in possession of my opinion, and I must say that it is most satisfactory to find that, throughout this vast Empire, with fanatical populations, and sometimes incapable and bigoted authorities, while no complaints of persecution have been made by the native Christians, it should only have been possible to bring forward these isolated instances of the ill-treatment of converts, who, in the eyes of all Musulmans, have committed an act meriting death, and who, a very few years ago, might have suffered that penalty.

I have, &c.

(Signed) HENRY ELLIOT.

P.S.—I inclose the copy of a letter which I received from the Deputation.

H. E.

Inclosure 1 in No. 186.

Mr. Sandison to Sir H. Elliot.

Sir,

Pera, January 29, 1875.

WITH reference to my Report of the 20th instant, I have the honour to state to your Excellency the refusal of Safvet Pasha to accede to the wishes of the deputation of the Evangelical Alliance in regard to an audience of the Sultan.

Considering the spiritual character of His Majesty as Caliph and vicar of the Prophet, his Excellency did not see how it was possible for the Sultan to receive personally the complaints of a Christian deputation entrusted with a religious mission concerning converts from Mohammedanism to Christianity, without seriously offending the religious feelings and prejudices of his own subjects and co-religionists.

In compliance with previous instructions I told his Excellency that the object of the deputation was not so much to seek redress for past grievances at the hands of the Sultan as to express to His Majesty the sympathies and friendly feelings of the British nation towards Turkey, and the hope which was entertained in England to ensure for the future the faithful execution of the existing Imperial decrees granting religious freedom and toleration to all his subjects. I added that Her Majesty's Ambassador was taking no official action in the matter, inasmuch as it was not one in which Her Majesty's Government had a direct interest, and that since the case was one which had been taken up by the English public, it was for the Porte to consider how far it might be advantageous to its own interests to satisfy the wishes of a friendly nation on a similar occasion.

After repeating the objections which had been pointed out to the deputation itself the day before yesterday, namely, that such audience would establish a most undesirable precedent for the demands of other nations, particularly at a moment when the Pope was supposed to be making such strenuous exertions in the cause of the Hassounite Armenian Catholics, his Excellency said that as far as he was concerned at least, he would not even be instrumental in any way in obtaining the audience now demanded.

Towards the close of the conversation his Excellency stated, however, that the Porte saw no objection to presenting, through its own medium, to the Sultan, the address of the deputation, and of writing a formal letter to them which would convey the assurances of His Imperial Majesty on the subject of religious toleration and the observance of the existing Imperial edicts respecting such matters.

I have, &c.
(Signed) A. SANDISON.

Inclosure 2 in No. 186.

Mr. Sandison to Sir H. Elliot.

Sir, *Pera, February 1, 1875.*

ACTING under your Excellency's further instructions of the 29th ultimo, I have continued strongly to urge upon the Porte the demands put forward by the deputation of the Evangelical Alliance in their letter (to your Excellency) of the 29th ultimo.

The points in question having practically been reduced to a reasonable demand deserving the favourable consideration of the Porte, namely, the liberation of the Ansairiyeh conscripts, Safvet Pasha showed every disposition to do whatever lay in his power in order to satisfy the deputation in this particular case.

As, however, the matter chiefly depended upon the Grand Vizier, his Excellency very much regretted to have to inform me this morning that there were reasons which made it utterly impossible for His Highness to concede the point, in other words, that he could not do so without altering the provisions and weakening the operation of the existing Law of Conscription, which the Turkish Government felt so anxious at all times to preserve in all its severity.

I reply, I again called Safvet Pasha's attention to what is stated in your Excellency's instructions with regard to the enlistment and subsequent treatment of the Ansairiyehs, and to the effect that the Porte's refusal to discharge them was likely to produce in England. The conscripts, I added, may have been properly enlisted and deserved punishment as deserters since there were grounds, it was said, for calling them so; but it was a matter for regret that the punishment inflicted on them at the time in Syria should, under the circumstances it was applied, have assumed all the appearance of religious persecution such as to produce an unfavourable impression in England, which it would now be difficult to remove.

His Excellency said he could hardly help not thinking so too, and that, barring the question of the audience, and of the liberation of the Ansairiyehs, he felt more than anxious to try to satisfy the deputation with one reserve only in the case of Mustafa of Marash, and by giving Her Majesty's Embassy such formal assurances in writing as would secure to Protestant converts for the future perfect toleration and protection from further molestation.

These, I remarked, were points already conceded before and after the Porte's refusal to entertain the question of the audience, and that the deputation was not likely to be satisfied with anything short of the discharge of the Ansairiyeh conscripts, whereupon his Excellency requested me to accompany him to the Grand Vizier's, which I accordingly did.

His Highness, having expressed his sincere regret at not being able to concede what he considered a most difficult point, repeated what Safvet Pasha had told me an hour before, adding, however, that the conscripts had drawn numbers during the conscription about three years ago, but they had failed to present themselves to the proper authorities within the time prescribed by law, when conscripts are, in certain cases, allowed to enjoy exemption from military service.

The Ansairiyehs in question, His Highness went on to say, had kept out of the way until the authorities thought proper to lay hold of them and treat them as deserters, which they were fully justified in doing. His Highness said, in conclusion, that he was not at all surprised at the construction which has been put by the missionaries upon the punishment inflicted on the conscripts at the time; but that this could not possibly alter the fact of their having been taken up as conscripts and deserters, and punished on that account only.

I have, &c.
(Signed) A. SANDISON.

Inclosure 3 in No. 186.

Order issued to Ismail Osman, Ahmed Gebbour, and Ahmed Gerkis, Chiefs of the District of Kardahah.

(Translation.)

ASSAAD CANAAN and Saleem and Ibrahim Khalaify, of the Protestant sect, who are of the district of Kardaha, from the village of Bhamra and Btemtoul, and residing at present in the village of Bhamra, belonging to the aforesaid district, have asked that the taxes, poll and land, apportioned to them, as they paid this year, so every year they will pay direct to the Treasury of Jebli, and be reckoned with the taxes at the villages aforementioned; and inasmuch as their demand for the conscription is (lawful), therefore, according to this agreement and their desire, you may not demand from them after the present in (reference to that), but they will pay the taxes allotted to them to the Treasury direct, without a (mediator); and for this object this has been expressly issued.

3 Rajab, 1285.

Kaïmakam Jebbi,
(Sealed) MOHAMMED RAFFAAT.

Inclosure 4 in No. 186.

The Kaïmakam of Jabelah to the Notables of the District of Kardahah.

(Translation.)

To the pride of their equals, Ismael Othema and Ahmed Jarkas and Ahmud Jabbur: the notables of the district of Kardahah.

IT has been the petition of Assad Kanaan and Abraham and Salim Khalifah, of the Protestant sect, who are of the inhabitants of the district of Kardahah, from the village of Bhamra and Tamiul, now residing in the village of Bhamra within (the jurisdiction of) the said district, that the vergo and capitation money apportioned over them, as they have paid it in this year, so too in each year they will make payment of it directly into the Treasury of the Khoda district, and it shall be credited to the vergo of the said villages.

And since their petition has been found in conformity with the statutes, therefore, according to their covenant and their petition, ye shall have herein no claim against them after now, but they shall pay the vergo due from them into the Treasury directly and without medium, and for this cause has this been written unto you particularly on the 3rd of Rajab, 1285.

(Sealed) MOHAMMED RAFAT, *Kaïmakam of Jabahal.*

Inclosure 5 in No. 186.

The Deputation of the Evangelical Alliance to Sir H. Elliot.

Constantinople, January 29, 1875.

THE members of the British Deputation charged with an Address from the British and Foreign Branches of the Evangelical Alliance have waited upon your Excellency in consequence of a communication they received from Mr. Sandison yesterday, after his interview with his Highness the Grand Vizier.

The Deputation are grieved to find that, notwithstanding the statement made to your Excellency by the Turkish Minister for Foreign Affairs, and communicated by the Earl of Derby to the Council of this Alliance, that "he had no doubt that upon application the Sultan would receive the members," and the coming of the Deputation in consequence of that assurance, they are now informed that the Porte object to obtain an audience for them.

This objection the Deputation cannot but interpret as a discourtesy to the distinguished noblemen and gentlemen who have signed the Address to His Imperial Majesty, and will be so regarded by them when informed of it on the return of the Deputation.

At the same time, the Deputation having come to Constantinople with the specific object to obtain redress for their persecuted fellow Christians and families, should this

object be attained, it would ill-become them to complain of discourtesy on a question of privilege. They have been deputed to ask:—

1. That the Ansairiyeh conscripts be released from the army and restored to the useful occupations from which they were suddenly separated under circumstances of great violence and cruelty.

2. That the family of Mustapha be restored to their home at Marash.

3. That assurances be given that the benevolent intentions of the late Sultan in the Hatti-Humayoun be honourably fulfilled.

The Deputation wish the Turkish Government to be informed, that unless these points be conceded at the earnest and united request of the signatories to the Address, the Deputation will leave Constantinople painfully impressed with the fact that the representations and even request made by the British Government, through your Excellency, have not received the attention which they desire, and that the promise given by the Turkish Government in reference to the Ansairiyeh conscripts has not been fulfilled. The Deputation will not hold themselves responsible for the unfavourable impression that will be produced in Great Britain and elsewhere by the failure of the object which has brought them to Constantinople.

The Deputation desire to offer to your Excellency their cordial thanks for your Excellency's courtesy and aid during their stay in this capital.

(Signed)

FRANCIS GONYNGHAM, M.P.

HENRY AYLMER, *Major-General*.

R. N. FOWLER.

SAML. GURNEY.

JABEZ JOHNSON,

JAMES DAVIS.

No. 187.

Sir H. Elliot to the Earl of Derby.—(Received February 15.)

Extract.)

Constantinople, February 4, 1875.

THE Deputation of the Evangelical Alliance, in leaving with me the Address to the Sultan, have, I believe, done so in the expectation or hope that your Lordship would direct me personally to present it to the Sultan.

In the assistance that I have given these gentlemen, I have gone to the very extreme limit of what could be regarded as unofficial support; but it has been a matter of no slight delicacy to refuse the more official intervention at which they were aiming without having the appearance of a want of sympathy in the cause that they were advocating.

With regard to the presentation of the Address to the Sultan by me, or even its delivery to the Grand Vizier for presentation to His Majesty, it is probably unnecessary for me to state to your Lordship that such a course is in no way called for, and would be in every respect undesirable.

There was, in fact, no reason why the Address should have been left in my hands, for the Porte had never refused to receive it, and the pretension of the Deputation to dictate the manner in which it was to be delivered to the Sovereign, is one which no Government would be disposed to recognize.

My Colleagues were not only indisposed to give any support to the wish of the Deputation, but some of them, upon being spoken to by Safvet Pasha, urged very strongly upon his Excellency the inexpediency of making a precedent so likely to prove inconvenient.

No. 188.

Sir H. Elliot to the Earl of Derby.—(Received February 15.)

My Lord,

Constantinople, February 5, 1875.

I HAVE had the honour to forward to your Lordship this day, at 3.50 P.M., the following telegram *en clair*:—

"I understand that, in a telegram sent to London papers at the request of the Evangelical deputation, it was stated that, as they were leaving Constantinople, an important communication from the Turkish Government was officially made to them on the subject of their mission and the protection of Christians for the future.

"No such communication was made to them, and I informed them that the Porte persisted to the last in refusing to comply with their wishes; but that the evidence afforded by their mission of the indignation caused by anything resembling religious persecution would have a beneficial effect upon the Ottoman authorities throughout the Empire."

I last night happened to meet the Reuter's agent at the Russian Embassy, when he asked me what communication from the Porte I had conveyed to the deputation; and, upon learning the exact substance of my letter, he expressed much annoyance at having forwarded a telegram so little in accordance with the facts.

I confess that I am myself altogether at a loss to understand how the deputation can have regarded my letter, of which a copy has been forwarded to your Lordship in my despatch of the 2nd instant, as an official communication from the Porte; for while I expressed in it my individual opinion of the good effect which might be anticipated from their mission I only stated, as regards the Porte, that they refused to modify the decisions already communicated to the deputation.

The inclosed letter from the Secretary of the Alliance appeared in the "Levant Herald" of yesterday.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure 1 in No. 188.

Telegram communicated by the Deputation of the Evangelical Alliance to Reuter's Agent for transmission to the "Times," dated February 3, 1875.

AN important communication from the Turkish Government was officially made to the British deputation as they were leaving Constantinople on the subject of their mission and the protection of Christians for the future.

Inclosure 2 in No. 188.

Extract from the "Levant Herald" of February 4, 1875.

THE DEPUTATION OF THE EVANGELICAL ALLIANCE.

To the Editor of the "Levant Herald."

Sir,

A DEPUTATION appointed on behalf of the various branches of the Evangelical Alliance have, in accordance with one of their objects, viz., to promote religious liberty for all men in all countries, visited this country and been cordially welcomed by the various portions of the Christian population.

The Turkish Government have thought it consistent with their official duties and the interests of Turkey, to refuse to ask an audience of his Imperial Majesty the Sultan for this deputation to present a respectful address from some of the most distinguished persons in Great Britain and other countries on the subject of the recent persecution from which their fellow-Christians are suffering in different parts of the Empire. The deputation are persuaded that these painful occurrences are contrary to His Majesty's benevolent intentions, and, therefore, that His Majesty has only to be informed of them in order to comply with the just and reasonable request of the signatories to the address. But, as the Turkish Government have, in addition to their refusal to present the deputation to His Majesty, also refused the earnest prayer of the signatories, the deputation decline to send to his Highness the Grand Vizier the address mounted and suitably prepared for His Majesty's acceptance. They return to England to inform the British people and Christians of other countries of the exceptional reception they have met with from the official representative of this great Empire.

I am, &c.
(Signed) JAMES DAVIS.

Constantinople, February 2.

[We publish this letter at the special request of the highly respectable and well-intentioned body of gentlemen who formed the deputation of the Evangelical Alliance

but it must be clearly understood that we assume no responsibility for its statements or the expressions of opinion it contains.—Ed. L. H.]

No. 189.

Sir H. Elliot to the Earl of Derby.—(Received February 17.)

My Lord, Constantinople, February 8, 1875.

IN consequence of the mission of the deputation of the Evangelical Alliance, I understand that the Turkish papers have been extremely violent in their denunciations of the missionaries, whom they designate, I am told, almost always as American, as the greater number no doubt are.

I have caused it to be intimated to Safvet Pasha, that although I never take notice of what is said in the papers, as the Porte professes to keep the press within suitable bounds, it would be to their own credit to see that invectives of indecent violence were not applied to a conscientious body of men.

I am happy to be able to say, that the irritation felt by the Turkish public towards the missionaries, although no doubt to a certain degree participated in by the Ministers, has not prevented the Porte from carrying into execution the promises that had been made to me in reference to certain matters in which the native Protestants had solicited my good offices.

There was no point upon which the Protestants attached greater importance than the appointment of one of their community to the Council of Education; and this has now been conceded, as had been promised to me by the nomination of the person they recommended for the post.

In sending yesterday to thank me for having helped them in this and other matters upon which they had required some help, they said that if the Porte now consents, as may be hoped, to desire that their Vekils or Representatives shall be acknowledged in the Provinces on an equal footing with those of the heads of other denominations, there will not remain a single grievance upon which they shall wish for assistance.

I have, &c.
(Signed) HENRY ELLIOT.

No. 190.

The Earl of Derby to Sir H. Elliot.

Sir, Foreign Office, February 19, 1875.

I HAVE to express the satisfaction with which Her Majesty's Government have learnt from your despatch of the 8th instant, that notwithstanding the irritation felt by the Turkish public towards missionaries, the Porte has carried into execution the promises made to you in reference to certain matters in which the native Protestants had solicited your good offices.

I am, &c.
(Signed) DERBY.

No. 191.

The Earl of Derby to Sir H. Elliot.

Sir, Foreign Office, February 19, 1875.

HER Majesty's Government concur in your views, as reported in your despatch of the 4th instant, with regard to the address to the Sultan, which was left in your hands by the deputation of the Evangelical Society; and I have to approve the course which your Excellency has taken in this matter.

I am, &c.
(Signed) DERBY.

Sir H. Elliot to the Earl of Derby.—(Received February 22.)

My Lord,

Constantinople, February 12, 1875.

I UNDERSTAND that the Grand Vizier looks upon the omission of the deputation of the Evangelical Alliance to call upon him as a deliberate mark of disrespect.

They had been informed, on their arrival, that His Highness was ready to receive their visit, although he must decline to enter into the object of their mission, the discussion of which he had entrusted to the Minister for Foreign Affairs.

The omission was certainly contrary to the invariable practice here, where a visit to the Grand Vizier is considered due to his position.

I have, &c.

(Signed) HENRY ELLIOT.

The Rev. J. Davis to the Earl of Derby.—(Received February 27.)

My Lord,

Evangelical Alliance, 7, Adam Street, Strand,
London, February 26, 1875.

I AM desired by the Council of this Alliance to send your Lordship copy of the Report of the deputation recently returned from Constantinople.

I am, &c.

(Signed) JAMES DAVIS.

Inclosure in No. 193.

PERSECUTIONS IN TURKEY.

Report of the British Deputation on their return from Constantinople, presented to the Members of the Council of the Evangelical Alliance, at a Special Meeting held at 7, Adam Street, Strand, Monday, the 22nd February, 1875.

My Lords and Gentlemen,

WE, your Deputation, take the earliest opportunity on our return to present you with our Report on the mission to Constantinople, with which you entrusted us, and to communicate the results so far as we can at present trace them. That mission, we were given to understand, was to convey a Memorial carefully prepared and numerous signed to His Imperial Majesty the Sultan of the Ottoman Empire, on the subject of persecutions suffered by Christian converts in Lattakia and at Marash. We were desired, in reliance upon the assurances given by the Turkish Minister for Foreign Affairs to the British Ambassador and the telegram received by the Turkish Ambassador to this Court from his Government, to request the honour of being allowed to present the address to His Majesty in person. We were further instructed in our intercourse with the Turkish branch of the Alliance, to express to them and others the sympathy felt by Christians of all nations with our oppressed and suffering brethren; and our common interest in the maintenance of religious liberty throughout the Turkish Empire, secured by Imperial Decree and Treaty with the Christian Powers of Europe.

The Deputation sailed from Marseilles on Saturday, the 16th January, bearing letters of introduction from official personages in this country to the Representatives of different Courts at Constantinople, some of them of special value as expressing a lively interest in the mission, and giving instruction to render all possible aid in effecting its important object.

On the following Thursday, the 21st, we arrived at Smyrna, and found on landing several missionaries and others waiting to receive us. We were conducted to the house of the American Consul, Mr. Smithies, by whom we were very courteously received and entertained. At this meeting there were also present Mustapha and his son Ali, the banished converts from Marash, from whom we obtained the following information:—

That no permission had been given them by the Turkish authorities to leave Smyrna.

That there had been no religious ferment among the population of their native town beyond what might easily have been controlled if the authorities had been willing to do so. Mustapha was very anxious to return with his family, believing that if instructions were sent from Constantinople to protect them there would be no danger. They are now in great want, deprived of their usual means of livelihood, and entirely dependent on the charity of their Christian friends. They had received nothing from the Government, and would have starved but for the support of the missionaries. The restoration of their children through the efforts of Christian friends had been a great joy to them, especially as the children had been told that their parents were dead and would never be seen again. They were not now interfered with, but believe they are watched by the police.

A few words of sympathy and encouragement were spoken by the Deputation to Mustapha and Ali, and the meeting closed by fervent prayer, offered by the Rev. Mr. Epstein.

On Saturday morning, January 23, we landed at Constantinople, and immediately announced our arrival to the British Ambassador, requesting the favour of an interview at his Excellency's earliest convenience. This was immediately granted, and the same day we had an interview with Sir Henry Elliot at the British Embassy, when the object of our visit was explained, stress being laid on the interest awakened in Europe and America in the mission, manifested by the numerous and distinguished names attached to the Memorial.

Sir Henry Elliot stated that, as regarded the presentation of the Address to the Sultan, there would be a difficulty in obtaining an audience with His Majesty, who did not receive deputations. The minister who had officially asserted that if the Deputation came he had no doubt they would be received, was now out of office, and his successor, who had only just been appointed, did not consider himself responsible for the acts of his predecessor. Sir Henry Elliot had reminded him of the expectation that had been raised, and now expressed the opinion that possibly an audience might be granted to one or two members of the Deputation to present the Address, but not to more.

As to the particular cases mentioned in the Address, Sir Henry Elliot was of opinion that the Council of the Alliance were mistaken, and that what had taken place was not persecution. That respecting Mustapha and Ali, who had been conveyed to Smyrna, they were under no compulsion whatever to remain there, provided they did not return to Marash.

His Excellency was reminded that they were still under the same prohibition to leave Smyrna as when first brought there, and on being appealed to whether the forced removal of this family, their being beaten and put in chains, their imprisonment, and banishment to Smyrna without means of subsistence, without any alleged charge of misconduct, was not a case of persecution, his Excellency admitted that it certainly was, and could not be defended.

Referring to the Ansairiyeh Christians, Sir Henry Elliot thought that the information relied on might be inaccurate; that the Ansairiyeh were liable to conscription; and the plea raised of their being Christians could not be allowed to exempt them from military service.

The Deputation replied that neither by the missionaries nor by the Evangelical Alliance had any question been raised of the liability of Christians as well as Mohammedans to serve in the Turkish army; that the cases of oppression and cruelty rested on the abundant testimony of numerous Christian gentlemen both at Lattakia and Damascus, whose truthfulness, sincerity, and uprightness were beyond suspicion; and that their testimony had been confirmed by statements made by Representatives of Her Britannic Majesty's Government. The Porte had known the strong feeling which had been aroused among European nations on account of the occurrences, but had never denied the alleged facts. Allusion was also made to the circumstance, that one of the men who had been seized at Lattakia on suspicion of being a convert to Christianity, was liberated on his declaration before his judges that he was still one of the Ansairiyeh and not a Christian.

The British Ambassador promised at once to communicate with the Turkish Government, and to obtain an interview for the deputation with the Turkish Minister for Foreign Affairs, advising that French and Turkish translations should be made of the Address to accompany the presentation of it, which was accordingly obtained.

The same afternoon we were favoured with a visit from the Committee of the Constantinople Branch of the Alliance, who gave us their cordial welcome, and assured us of the deep satisfaction which our visit gave to all classes of the Christian population. We were informed that, notwithstanding the Imperial decree, much intolerance and suffering on account of religious opinions prevailed. Your deputation consulted with

the Committee on the steps desirable to be taken with a view to promote the objects of their mission.

On Monday morning numerous members of the Protestant community, introduced by Hagop Matteosian, the Vékil or civil head of that body, presented the following address:—

“To the Members of the Deputation of the Evangelical Alliance.

“Gentlemen,

“We the Undersigned, in behalf of the Protestant Community of this Empire, most respectfully welcome you to our country as the distinguished representatives of Evangelical Christendom.

“We fully appreciate your purely benevolent motives in coming so far in such an uninviting season of the year. And in grateful acknowledgment of your disinterested sympathy ever manifested for the religious welfare of all Evangelical Christians, and specially of our own, we offer you our heartiest thanks.

“We have heard of your noble and generous design of pleading with our August Sovereign for the enlargement of religious liberty in this country, and we sincerely hope and believe that you will find our Gracious Sovereign ready to respond to your best wishes, and no less so His Majesty’s present enlightened Ministry.

“We beg to assure you, gentlemen, of our highest and lasting esteem, as well as of all who seek to promote the best interests of this country.

We are, &c.

(Signed)

“HAGOP MATTEOSIAN, *Vékil of the Protestant Community.*

“M. D. KIREDJIAN.

“V. A. CONSTANTIAN.

“HOHN. MINASSIAN.

“SDEPAN UTUDJIAN.

“H. H. DJEJIZIAN.

“G. T. KAPRIELIAN.

“N. G. DADIRRIAN, M.D.

“BISHOP MIGHERDITCH, *Episcopalian.*

“G. VARTANIAN, M.D.

“HORHANNES DO-MUGGERDITCHIAN.

“Constantinople, January 24, 1875.”

The address was acknowledged by the chairman of the deputation, and an interesting conversation ensued on the general question of religious liberty. Several important facts were stated, painfully showing the insufficient protection afforded to different classes of Christian subjects of Turkey, and the failure of efforts to redress the wrongs complained of. Various documents were also presented, which we promised should be submitted to the Council of the Alliance, and the Vékil was assured that they would receive careful consideration.

Members of other religious bodies also had interviews with us, among them Monsignor Etienne Agasian, Head of the Armenian Roman Catholic Church, who complained of the persecutions and annoyances suffered at the hands of the Turkish authorities at Erzeroom and Angora.

Your deputation paid visits to the American, French, German, Austrian, and other Embassies, and they desire to record their sense of the courteous attentions and kind hospitality which they received. They desire also to acknowledge the valuable advice and information given to them, accompanying assurances of sympathy and cordial approval of the object of their visit.

On Tuesday, January 26th, accompanied by Mr. Sandison, first dragoman to the British Embassy, we had an interview at the Sublime Porte, with Safvet Pasha, Turkish Minister for Foreign Affairs. Mr. Sandison having introduced us, then read in French the instructions received from Sir Henry Elliot, to the effect that the deputation had come upon a most important mission, that serious feelings of indignation had been aroused in England and other countries by what had recently taken place in the Turkish Empire, and that it was desirable in the interests of Turkey that the deputation, or at least some members of it, should have an opportunity of presenting to His Imperial Majesty in person the document which bore the signatures of eminent personages well known in connection with the affairs of Turkey.

This was followed by an address in French from one of the deputation, who, having

stated the grievances complained of, expressed on behalf of the distinguished signatories the earnest desire to bring the circumstances before the attention of His Imperial Majesty, as we were assured that the grievances complained of were contrary to the just policy of His Majesty, and needed only to be brought to His Majesty's knowledge in order to receive instant and satisfactory redress.

His Excellency replied, "That for His Majesty to receive a foreign deputation was without precedent, and, if accorded, might be followed by consequences which we should be the first to regret; that religious liberty was guaranteed throughout Turkey; that the Turkish army must be maintained, and no exemptions on religious grounds could be admitted. With all respect to the deputation, only two cases had been mentioned in the Memorial, and these were not sufficient in the judgment of the Turkish Government to cause them to depart from established usage in this matter, as they were small matters about which to trouble His Majesty."

A discussion followed, in which it was explained to His Excellency why only two cases, among others, were referred to—these having been specially authenticated to the Council and the British Government, and being sufficient for the purpose of bringing the subject to the notice of His Imperial Majesty. It was also made known to his Excellency that if the deputation were not allowed to present the Address to His Majesty, or if they returned without receiving any official promise from the Turkish Government, that our brethren whose cause we came to plead would be restored to their liberty and just rights, the very unfavourable impressions already produced in England would be seriously intensified. His Excellency then promised us that he would state our views to the Grand Vizier, and learn his Highness's decision on the subject, adding, that England had always been a great friend of Turkey.

We were subsequently assured that a favourable impression had been produced, and that his Excellency was desirous of meeting our wishes. We were also informed that communications were passing between the British Embassy and the Porte; that strong representations had been made on the subject of meeting the wishes expressed by the signatories to the Address, and the hope was encouraged that we should not be allowed to return without seeing our object, at least in part, accomplished. On Thursday evening we received a visit from Mr. Sandison, who reported the decision of the Grand Vizier to the following effect:—"That His Majesty the Sultan, being Caliph or religious Head of the Mahomedan religion, could not receive a foreign deputation coming to him on religious grounds, without seriously offending his Mussulman population; and that, as regards the cases of alleged persecution, the Turkish Government would give orders that Mustapha and his family should be allowed to leave Smyrna for any other place they pleased, but not to return to Marash for the present. As regards the Ansairiyeh conscripts, no promise of any alteration in their condition could be given."

Your Deputation were surprised at such a result, after the strong representations made by the British and other Embassies to the Sultan's Government; and feeling that the honour of England—foremost in advancing the great cause of religious liberty—was deeply concerned, resolved to present the following Address to Her Majesty's Ambassador, which was done on the ensuing morning, Friday, January 29th:—

"To the Right Honourable Sir Henry Elliot, G.C.B., Her Majesty's Ambassador at Constantinople.

"January 29, 1875.

"The Members of the British Deputation, charged with an Address from the British and Foreign Branches of the Evangelical Alliance, have waited upon your Excellency in consequence of a communication they received from Mr. Sandison yesterday, after his interview with his Highness the Grand Vizier.

"The Deputation are grieved to find that, notwithstanding the statement made to your Excellency by the Turkish Minister for Foreign Affairs, and communicated by the Earl of Derby to the Council of this Alliance, 'that he had no doubt that upon application the Sultan would receive the Members, and the coming of the Deputation in consequence of that assurance, they are now informed that the Porte objects to obtain an audience for them.

"This objection the Deputation cannot but interpret as a discourtesy to the distinguished noblemen and gentlemen who have signed the Address to His Imperial Majesty, and will be so regarded by them when informed of it on the return of the Deputation.

"At the same time the Deputation have come to Constantinople with the specific object to obtain redress for their persecuted fellow Christians and families; should this

object be attained, it would ill-become them to complain of discourtesy on a question of privilege. They have been deputed to ask:—

“1. That the Ansairiyeh conscripts be released from the army and restored to the useful occupations from which they were suddenly separated under circumstances of great violence and cruelty.

“2. That the family of Mustapha be restored to their home at Marash.

“3. That assurances be given that the benevolent intentions of the late Sultan in the Hatti-Humayoun be honourably fulfilled.

“The Deputation wish the Turkish Government to be informed, that unless these points be conceded at the earnest and united request of the signatories to the Address, the Deputation will leave Constantinople painfully impressed with the fact that the representations and even request made by the British Government through your Excellency have not received the attention which they deserve, and that the promise given by the Turkish Government in reference to the Ansairiyeh conscripts has not been fulfilled. The Deputation will not hold themselves responsible for the unfavourable impression that will be produced in Great Britain and elsewhere by the failure of the object which has brought them to Constantinople.

“The Deputation desire to offer to your Excellency their thanks for your Excellency's courtesy and aid during their stay in this Capital.

“FRANCIS N. CONYNGHAM, M.P.

“HENRY AYLMER, *Major-General*.

“R. N. FOWLER.

“SAMUEL GURNEY.

“JABEZ JOHNSON.

“JAMES DAVIS.”

In our interview with Sir Henry Elliot the following day, an important fact was mentioned. His Excellency was reminded that he had received instructions from the Earl of Derby “to endeavour to procure orders for the immediate release of the Ansairiyeh conscripts, if such orders had not already been given.” That request, made by Great Britain, had not been complied with. The promise, however, for the release and return to their occupation of the three converts violently seized at Lattakia was given by the Turkish Government to the American Minister, on condition that he obtained the necessary papers proving exemption from military service. The papers were obtained, duly certified, and declared sufficient by the Turkish Minister, but the men did not obtain their release; and three more Christian converts of the Ansairiyeh tribe were subsequently seized under circumstances of like severity with the former, and taken military prisoners to Damascus, where they still remain.

The expectation was still encouraged that a modification of the Grand Vizier's decision might be obtained, but Mr. Sandison subsequently communicated to us the ultimatum of the Porte, which in no way reversed the decision previously arrived at. At the same time an offer was made on the part of the Vizier to receive the Address, and convey it to the Sultan.

After much deliberation and careful consultation, both with the Local Committee and with influential persons in Constantinople, well competent from their long residence and intimate acquaintance with Turkish affairs to give suitable advice, we arrived at the conclusion that the offer on the part of the Grand Vizier to receive the Address, and convey it to His Imperial Majesty, could not be accepted. We considered that, with due respect to those whom we had the honour to represent, and in fulfilment of the trust reposed in us, there was only one course left for us to take, viz., to leave Constantinople at once; but, before doing so, to deposit the Address, suitably mounted and engrossed, for presentation to His Majesty, with the British Ambassador, and to request Sir Henry Elliot to forward to His Highness the Grand Vizier the following protest:—

“His Highness Hussein-Avni Pasha, *Grand Vizier*. “*Constantinople, February 3.*

“The British deputation charged with the presentation of an Address to His Imperial Majesty the Sultan on the subject of the cruel treatment inflicted on some of His Majesty's Christian subjects on account of their religious opinions, are much disappointed at the refusal of your Highness to solicit for them an audience of His Majesty, especially after the expectation held out by the Turkish Government, and communicated officially to Her Britannic Majesty's Secretary of State for Foreign Affairs, the Right Honourable the Earl of Derby.

“The deputation venture, in all fidelity to those whom they represent, to protest against this refusal as disrespectful to the distinguished noblemen and gentlemen (some

of whose names are closely connected with the history of Turkey) who have signed the Address. The deputation also deeply deplore that your Highness should not only decline the request for an audience, but also refuse to liberate the Ansairiyeh conscripts from the military service to which they had been subjected under circumstances of great cruelty, and in violation of the law of Turkey, and to permit the family of Mustapha to return to their home and occupation at Marash.

"The deputation on leaving Constantinople beg respectfully to represent to your Highness that they cannot hold themselves responsible for the alienation of that good feeling towards Turkey which had hitherto existed in England, nor for the disappointment which the failure of their mission will produce both in Europe and in America.

(Signed) "FRANCIS N. CONYNGHAM, M.P.

"HENRY T. AYLMER, Major-General.

"R. N. FOWLER.

"SAMUEL GURNEY.

"JABEZ JOHNSON.

"JAMES DAVIS."

Sir Henry Elliot kindly promised to forward the protest to His Highness, and also permitted us to leave with him the Address to the Sultan. His Excellency, at the same time, informed us that he had just learned that the Turkish Government now justified their treatment of the Ansairiyeh conscripts, on the ground that three years since the men should have presented themselves for enrolment; that not having done so, they were considered as deserters, and consequently were so treated. This plea, now urged for the first time after fifteen months' agitation of the question, was pronounced to be "suspicious," and his Excellency said that he had requested of the Turkish Government to order an investigation into the matter, requiring that it should be public, and conducted in a fair and satisfactory manner.

Before leaving Constantinople, we communicated this circumstance to the Committee of the Turkish Branch of the Alliance, who will, without delay, obtain the necessary evidence to show that these Christian men were legally exempt from conscription, and, therefore, were under no obligation to present themselves to the authorities for enrolment. Their peaceful and useful lives in the same district, year by year, as teachers in the Christian mission schools, proves that they had no consciousness of any charge hanging over them as deserters.

On the morning of their departure, within an hour of embarkment, your deputation had placed in their hands the following letter from Her Majesty's Ambassador:—

"Gentlemen,

"Constantinople, February 2, 1875.

"I regret to have to inform you that the Porte declines to modify the resolution already communicated to you by Mr. Sandison.

"The Sultan, having been duly informed of your arrival and of the object of your mission, left it to his Ministers to follow the course which they might think proper, and they do not consider it expedient to recommend to His Majesty so great an innovation upon established usage as to consent that an Address to His Majesty, in reference to matters belonging to an internal administration of his Empire, should be personally delivered to him in an audience granted to a foreign deputation.

"The Porte, in declining to accede to your request for an audience, are anxious to disclaim all intention of showing the slightest discourtesy to yourselves, or disrespect to those who signed the Address, but they have felt it incumbent upon them to avoid establishing a precedent likely to be productive of much inconvenience.

"Although you have been denied the privilege of personally presenting the Address to the Sultan, you may at least have the satisfaction of feeling that the principal object of your mission will have been attained.

"The evidence that has been afforded of the indignation with which everything approaching to religious persecution is regarded by the best friends of Turkey, cannot fail to have a beneficial effect upon the Ottoman authorities throughout the Empire, and the Government will be desirous of preventing them from giving cause for further remonstrance.

"I have, &c.

(Signed) "HENRY ELLIOT."

"To the Deputation of the Evangelical Alliance."

On Monday, February 1st, we had the privilege of entertaining at breakfast the members of the Committee of the Turkish Branch of the Evangelical Alliance, and after-

wards holding a final conference with them as to the wisest and most beneficial course to pursue under the present circumstances. We desired to present the cordial salutations of the Committee to the Council and members of the British Organization of the Evangelical Alliance, with their warmest thanks for the visit of the deputation. The hope was fervently expressed that the Christianity of Great Britain would be still further moved by the occurrences in Turkey, and influence public opinion so that its voice might be heard and felt in the Cabinet of that Empire.

We desire to remind our Christian brethren of the pledge given by Sultan Abdul-Medjid, that "no subject of the Empire shall be hindered in the exercise of the religion that he professes, nor shall be in any way molested on that account;" and that upon this pledge Turkey was regarded as having adopted the sentiments of the most civilized nations, and has largely profited by her alliance with Christian Powers of Europe. This pledge, as we are informed, has been repeated on several occasions by the reigning Sultan, and to this day the Turkish Government declares its policy to be one of perfect religious liberty. Judging from the reception our respectful representations have met with, and the information obtained during our stay in Constantinople, we are constrained to record the deliberate conviction that this policy is not carried out; that the treatment of Christian converts on the part of local authorities is often insulting, and, at times, in the highest degree cruel; and that there is a failure on the part of the officers of the Porte to rebuke their subordinates when convicted of intolerance, and an abuse of the powers intrusted to them. We need scarcely add, that our visit deeply impressed us with the high importance to the interests of civil and religious liberty throughout the world; that it should be energetically sustained by the British Government at home, and its Representatives abroad.

Although the immediate object of the mission may not appear at present to have been gained, your deputation are gratified to know that it has not been in vain. They were assured by many persons in various quarters, that very important results had already been secured. The expression of wide-spread sympathy with those who are suffering for conscience sake, has carried with it much consolation and encouragement. Their personal intercourse with Christian men, holding and promulgating the doctrines of the Gospel in Turkey, has strengthened them in their work and testimony. Much valuable information has been obtained concerning the true state of religious liberty in Turkey, which will be available in any further united action it may be thought desirable to take. A powerful impression has been produced as to the real union of Christians of various nations, and their active co-operation whenever and wherever called for by the sufferings and oppressions of their brethren; and, lastly, in the words of Sir Henry Elliot, "The evidence afforded by the indignation with which everything approaching to religious persecution is regarded by the best friends of Turkey cannot fail to have a beneficial effect upon the Ottoman authorities throughout the Empire."

Your deputation resign the trust committed to them, in the confidence and hope that the Council of the Evangelical Alliance will not rest in their exertions until the grievances of their Christian brethren are redressed, and religious liberty becomes an accomplished fact in the Turkish Dominions.

We remain, my Lords and Gentlemen, your faithful Servants,

(Signed) FRANCIS N. CONYNGHAM, M.P., *Chairman.*

HENRY AYLMER, *Major-General.*

R. N. FOWLER.

SAMUEL GURNEY.

JABEZ JOHNSON.

JAMES DAVIS.

The Report having been received, the following Resolution—

Moved by John Finch, Esq., Treasurer,

Seconded by Sir Harry Verney, Bart.,

"That the best thanks of this Council be presented to Lord Francis N. Conyngham, M.P., and the members of the deputation, for their valuable services in connection with their important mission to Constantinople, and for the wisdom and firmness displayed by them under peculiar and trying circumstances"—

was unanimously passed.

No. 194.

Mr. Bourke to the Rev. J. Davis.

Sir, *Foreign Office, March 1, 1875.*
 I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 26th ultimo, inclosing copy of the Report of the British Deputation recently returned from Constantinople.

I am, &c.
 (Signed) ROBERT BOURKE.

No. 195.

Sir H. Elliot to the Earl of Derby.—(Received April 3.)

(Extract.) *Constantinople, March 20, 1875.*

I HAVE the honour to inclose a copy of the answer I have returned to Mr. Vice-Consul Kirby Green's despatch, of which he sent a copy to your Lordship, respecting a letter published in a Turkish newspaper reflecting upon the Protestant missionaries.

The Vekil of the Protestants called upon me three days ago, again to express his grateful thanks for the consideration with which he is now treated by the Porte.

Inclosure in No. 195.

Sir H. Elliot to Vice-Consul Green.

Sir, *Constantinople, March 20, 1875.*

I HAVE received your despatch of the 11th instant, inclosing the translation of an article from the newspaper "Surizeh," in explanation of a letter published in a preceding number, which had appeared offensive to the Protestants, and inquiring whether I considered it sufficient.

I have to state, in reply, that you acted properly in abstaining from entering into a discussion with the Governor-General upon this subject, and to add, that it will not be necessary or desirable to revive it, by calling for any further explanation.

I am not acquainted with the article in the "Church Missionary Gleaner," which is represented as having provoked the original letter; but it is to be remembered that any parade of conversions from Mahomedanism to Protestantism, or of the attendance of Mahomedans at Christian Churches, is likely to call forth intemperate comments.

The letter is, I believe, correct in representing that among the different Christian denominations, it is the Protestant missionaries alone who endeavour to make converts among the Mussulmans; and this is to a great extent the cause of that community being regarded with more disfavour than the others.

The Imperial Government is at present so far from being indisposed towards the native Protestants, that twice within the last few weeks, their Vekiel has come to me to express his satisfaction at finding his community treated with a consideration which it had never before experienced.

I am, &c.
 (Signed) HENRY ELLIOT.

No. 196.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, April 6, 1875.*

A DEPUTATION of the Evangelical Alliance called at this Office to-day, and left with me the inclosed printed papers.

I assured them that Her Majesty's Government sympathized with the object which the Alliance had in view of securing the freedom of religious worship in the Ottoman Dominions and elsewhere, and, after listening to their representations on the subject of the Ansairiyeh Christians and the convert at Marash, and also to an allegation which was brought forward that the Porte had refused permission to print a Turkish translation

of the Bible. I promised that I would call upon your Excellency to report how these matters now stand.

I have accordingly to request that your Excellency will be good enough to provide me with a general report upon the present position of the various matters to which the Alliance have called attention, and with your opinion whether the interference of Her Majesty's Government is called for, or could properly be exercised in regard to any of them.

I have already informed you in my despatch of the 19th of February, that Her Majesty's Government approved the course which your Excellency proposed to adopt in regard to the Address left with you by the deputation which visited Constantinople, as reported in your Excellency's despatch of the 4th of February, and I have no fresh instructions to give your Excellency on that point.

I am, &c.
(Signed) DERBY.

No. 197.

The Rev. C. Jackson to the Earl of Derby.--(Received April 8.)

*British and Foreign Bible Society, Queen Victoria Street,
Blackfriars, London, April 6, 1875.*

My Lord,

YOUR Lordship's time and attention must be so fully occupied with other matters than those which were brought before you by the deputation on the question of religious liberty in Turkey, whom you were kind enough to receive to-day, that I take the liberty of placing in a more permanent form, for the information of your Lordship, the facts which I then brought under your notice.

Some of them will be found in detail in the "Correspondence respecting Protestant Missionaries and Converts in Turkey," presented to Parliament in 1865. At page 6 of that document is printed the Memorial which the Bible Society presented to Earl Russell, in consequence of the closing of its dépôt in Constantinople by the Turkish police, who expelled our officials, and set a seal upon the doors, and also in consequence of one of our colporteurs having been arrested and imprisoned in Bulgaria. At page 23 occurs the letter of Earl Russell to Sir H. Bulwer, in which he instructs him to "urge the Turkish Government to allow the free distribution of the Bible by means of hawkers employed by the Bible Society or other British subjects as an essential and indispensable part of religious liberty guaranteed by the Hatti-Humayoun, and confirmed by the practice of many years."

At page 30, Sir H. Bulwer, in replying to the above letter, admits that "the Bible Society has always conducted itself quietly and respectably, that the Porte regards it with favour rather than otherwise, that it has given permission to print the Scriptures in the Turkish language, and that there is no intention on the part of the police of interfering with the colporteurs if they conduct themselves quietly."

At page 86 occurs the despatch of Aali Pasha, in which he declares, "everyone is now free to profess his own religion, and to follow his own form of worship. The members of religious communities are not subjected to any restraint in the exercise of their religious ceremonies. All creeds erect their places of worship, and enjoy full liberty, and the sacred books of all religions are printed and published in different parts of the Empire." The despatch closes with these remarkable words: "I make it my duty to add that the free sale and circulation of the Bible continues, and will always continue to be authorized in the Empire." On the faith that these promises will be fulfilled, and these principles maintained, Earl Russell closes the correspondence.

On the same faith the British and Foreign Bible Society has, in conjunction with the American Bible Society, been engaged for many years, and at a cost of 7,000*l.*, in bringing out a new translation of the Bible, in Turkish, and now that this important work is ready for the press, the Turkish Government refuse permission to print it. The Representatives of the English and American Governments have remonstrated and have obtained an acknowledgment of error on the part of the Turkish authorities in attempting to prohibit the printing, but when an application is made for an authorization to print, an evasive answer is given, and the matter rests where it was.

It would be superfluous to call your Lordship's attention to the fact that permission to profess the Christian faith and to exercise its rights and ceremonies is but a mockery if the only book on which that faith and practice are founded is suppressed, and that religious liberty is an empty name if access is forbidden to the Revelation of Him who

alone can give liberty to the captives and the opening of the prison to them that are bound.

The Committee of the Bible Society earnestly entreat your Lordship's powerful aid to relieve them from the difficulty in which suddenly and unexpectedly they find themselves placed, and they venture to hope that you will require, as a matter of right, secured by Treaty and confirmed by the practice of many years, that a written authorization be given to their representatives at Constantinople to print the Bible in the Turkish language.

I have, &c.
(Signed) CHARLES JACKSON, *Secretary*.

No. 198.

Lord Tenterden to the Rev. C. Jackson.

Sir, *Foreign Office, April 9, 1875.*
I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 6th instant, respecting the refusal of the Porte to give permission for a Turkish translation of the Bible to be printed; and I am to inform you that a copy of your letter has been forwarded to Her Majesty's Ambassador at Constantinople with instructions to report on the matter.

I am, &c.
(Signed) TENTERDEN.

No. 199.

The Earl of Derby to Sir H. Elliot.

Sir, *Foreign Office, April 9, 1875.*
WITH reference to my despatch of the 6th instant, I transmit to you herewith an extract from the "Times," containing a substantially accurate report of the proceedings at my interview with the deputation of the Evangelical Alliance.

I also inclose, for your Excellency's information, a copy of a letter from the British and Foreign Bible Society respecting the alleged refusal of the Porte to permit the printing of a Turkish translation of the Bible.*

I am, &c.
(Signed) DERBY.

Inclosure in No. 199.

Extract from the "Times" of April 7, 1875.

THE EVANGELICAL ALLIANCE AND THE PORTE.—A deputation from the Evangelical Alliance and other bodies on the subject of religious persecution in Turkey was received yesterday by the Earl of Derby at the Foreign Office. The deputation, which was introduced by Lord Lawrence, consisted of the following gentlemen:—Lord Francis Conyngham, M.P.; Sir Henry Havelock, M.P.; Mr. A. M'Arthur, M.P.; Major Peplow, M.P.; Colonel the Hon. Strange Jocelyn; Mr. James P. Corry; Mr. George Anderson, M.P.; Mr. John Finch; General Burrows; Mr. Bedford Marsh; Mr. W. Ward; Lieutenant-Colonel R. Wilmot Brooks; Mr. R. N. Fowler; Mr. Samuel Gurney; Mr. J. Lambert Jones; Mr. Robert Johnston; Mr. Thomas Seccombe; Rev. Charles M. Birrell; Rev. Robert Johnston; Mr. Lockhart Gordon, Secretary of the Christian Vernacular Education Society; Rev. Charles Jackson, Mr. Henry F. Bowker, and Mr. Joseph Hoare, representing the British and Foreign Bible Society; Captain the Hon. F. Maude and General A. Clarke, representing the Church Missionary Society; the Rev. James Davis, and the Rev. C. de Boinville.

Lord Lawrence said that letters had been received from the Archbishop of Canterbury, the Earl of Chichester, the Earl of Harrowby, Lord Ebury, and several members of Parliament, expressing regret at being unavoidably absent, and their

deep interest in the object of this interview. In the absence of the Archbishop, it had devolved upon him to express the feelings of the several societies represented by the deputation. A meeting was recently held at Lord Ebury's, when a resolution was passed (moved by the Archbishop of Canterbury, seconded by himself, Lord Lawrence) regretting that the Grand Vizier of Turkey had refused to apply to the Sultan for an audience for the deputation which recently visited Constantinople. The meeting also resolved to request the Earl of Derby to instruct the British Ambassador at Constantinople to present the Memorial to the Sultan which the deputation had left with his Excellency, or to adopt such other methods as might be thought likely to accomplish the desired object. The Memorial contained nothing that could give the slightest offence. It embodied the sentiments promulgated by the late Sultan in 1856, and quoted the words of His Majesty's firman, "Henceforward neither shall Christians be insulted in my dominions, nor shall Christians be in any way persecuted for their religion." The particular cases intended to be brought before the Sultan were two, in which the liberality of sentiment expressed in the firman had been entirely departed from. In one case two Christians of Marash had been taken from their homes, beaten, imprisoned, and banished to Smyrna in consequence of their religion. The other case was that of the Ansairiyeh converts taken to Lattakia and cruelly used because of their refusal to abjure the Christian religion. Considering how much Turkey owed to England, Christians in this country considered it their duty to press upon the Turkish Government that Christianity should have fair play. The deputation trusted that his Lordship would take into consideration what was urged in the Memorial and in the resolution passed at Lord Ebury's, and that especially he would use his great influence with the Representative of England in Turkey to further the objects which the promoters of the Memorial had at heart.

The Earl of Derby said he apprehended that we had no right to insist on the Sultan receiving a deputation. He believed that, as a matter of fact, the Sultan never received deputations of his own subjects. He lived a very secluded life, seldom transacting business with any but his own Ministers, and even they did not always succeed in obtaining audiences. The refusal of an audience by such a Sovereign must not be regarded in the same light as a refusal by any other European Government. He (*Lord Derby*) regretted very much that any misapprehension should have occurred. Undoubtedly some hopes were held out, but no actual promise of an audience was given by the Turkish authorities. The deputation could not doubt his sympathy with their objects. Freedom of thought, of speech, and of action, as far as that was compatible with the requirements of civilized society, were the very bases of English society, and we were naturally anxious that those principles should be extended as far as our influence could extend them. At the same time, it must be recognized that in a vast Empire, not having an effective system of police, not having a strong central authority in which religious (by which he meant Mahomedan) and national sentiment were blended, as it were, in one, and in which very strong, even fanatical feelings prevailed among the mass of the population, there were very great difficulties to be encountered, and which it was not fair to the Porte and its advisers that we should not bear in mind. With regard to the Ansairiyeh, *Lord Lawrence* did not refer to the fact that they were not originally a Christian tribe, and, therefore, their position was essentially distinct from that of an hereditary Christian population. The Turks might thus say, with some truth, "If we were to allow any Ansairiyeh to escape the consequences of the conscription who declares himself a Christian, we shall have wholesale conversions." The admission by the Turks of exemption on the ground of conversion to Christianity would be in short the holding out of a hope to any one that he might escape military service by abandoning his religion. We must, therefore, admit that if the Ansairiyeh were liable to conscription in the state in which they were born, and the Turks contended that they were, then the circumstances of their having embraced Christianity did not exempt them from the operation of the military law. The question was whether they had not been persecuted and ill-treated, not in order to compel them to serve, but as a punishment for their change of faith. That might be, and he believed was, to a certain extent, true as regarded local authorities. But there was an interference on their behalf, and they were removed from the regiment in which they had been serving and placed in another in which Christians were actually serving; and it was stated that they would be free to follow their religious convictions. Although, perhaps naturally and excusably, yet unfortunately, some of these men deserted, and that gave the authorities an advantage over them, for they would be sought as persons who had committed a breach of the law. What was the actual position of these men at present?

The Rev. James Davis said that the strength of the Deputation's case was that the

men who had been seized had been teachers in the mission schools for fifteen or seventeen years, and had never been enlisted in the army up to the time of their forcible arrest.

Lord Derby.—There is considerable conflict of evidence on that point.

Mr. Davis.—We have not heard of any, nor have the statements of the missionaries and others on the spot been denied. The men taken in the autumn of 1873 were not taken as deserters or soldiers at all, nor did they hear anything about conscription until they had resisted threats and promises and much cruel treatment to make them give up their religion. Two of them finding their sufferings to be intolerable, escaped from Damascus, encouraged to do so, as the American Minister informed us, by their own officers. They returned to their own village and to the school whence they were afterwards seized with three others, and brought as military prisoners to Damascus. They are now, we hear, in a dragoon regiment at Beyrout, where the one who had been taken to Constantinople has been sent to join them.

Mr. R. N. Fowler said the fact that they had been teachers for sixteen years showed they had arrived at an age when no Government would be anxious to enlist them except under the pressure of war.

Lord Derby.—Had they been converts sixteen years?

Mr. Fowler.—Yes. Another man who declared that he was still an Ansairiyeh was released.

Sir Henry Havelock pointed out that the men originally taken were exempt from conscription, for one reason among others, that they had paid the exemption tax.

Lord Lawrence read an extract from the "*Levant Herald*," which referred to the sufferings of a large number of persons in another part of Turkey, where fathers and husbands had been removed on account of their religion.

Lord Derby.—That statement is entirely new to me.

Lord Francis Conyngham thanked Lord Derby for the assistance he had rendered to the Deputation to Constantinople, and regretted that the representations his Lordship had made had not been so effectual in Constantinople as had been anticipated. He reminded Lord Derby that Sir Moses Montefiore and the Papal Nuncio had received audiences of the Sultan. It was also the custom of His Majesty to receive a petition or memorial from the poorest of his subjects, who presented it to him at the door of the mosque where he worshipped. For obvious reasons the Deputation would not adopt that course.

The Rev. Charles Jackson, secretary of the British and Foreign Bible Society, read extracts from a correspondence which was presented to Parliament in 1865 between Ali Pasha, the Turkish Minister for Foreign Affairs, and Earl Russell, in which Ali Pasha wrote "Every one is now free to profess his own religion and to follow his own form of worship," and "I think it my duty to add that the free sale and circulation of the Bible continues, and will always continue, to be authorised in the Empire." Now, however, a reactionary policy had been commenced by the Turkish Government against Christianity. Since 1861 the Bible Society had, with the knowledge of the Turkish Government, expended 7,000*l.* upon the preparation of a translation of the Bible into the Turkish language. The translation was now complete, and application to the Turkish Government for permission to print had been made, but to the present time no official consent had been given.

Sir Henry Havelock said perhaps the disappointment of the Deputation in Constantinople would prove fortunate after all since the circumstances had now happily fallen into Lord Derby's hands to be dealt with in strict official form.

The Hon. Francis Maude, on behalf of the Church Missionary Society, expressed his full concurrence with the remarks that had been made by the members of the Deputation.

Lord Lawrence having thanked Lord Derby for the interview, the Deputation then retired.

Sir, *Foreign Office, April 10, 1875.*

WITH reference to your despatch of the 20th of March, forwarding copy of your reply to Vice-Consul Green's despatch relating to a letter published in a Turkish newspaper, reflecting upon the Protestant missionaries, I have to inform you that I have

received a copy of the aforesaid despatch, and that I have approved of Mr. Vice-Consul Green's conduct as reported therein.

I am, &c.
(Signed) DERBY.

No. 201.

Sir H. Elliot to the Earl of Derby.—(Received April 11.)

My Lord, Constantinople, March 29, 1875.

IN the report of the Deputation of the Evangelical Alliance, of which a copy was sent to me by their Secretary, it is stated that when they stopped at Smyrna, they found that the convert Mustapha of Marash was kept there under police observation, and not allowed to leave the place.

This statement is perfectly correct, and I found upon inquiry that the orders which had been promised to me in reference to this man had not been forwarded to the Governor-General of Smyrna.

Safvet Pasha, however, engaged that it should be done without further loss of time, and, in reply to a question which I put to him to-day, he assured me that the order was sent some time ago, and that the man is now perfectly free to go where he pleases, except to Marash, without molestation from anyone.

With regard to the Ansairiyeh conscripts, I have the honour to inform your Lordship that I have caused the Turkish Law of Conscription to be carefully examined, with a view to ascertain whether the Porte was justified in maintaining that they had been properly regarded as deserters.

The result has been to leave no doubt that by the provisions of that Law, which is extremely stringent, the men in question came distinctly within the category of deserters, as therein defined.

I may further add that, although the deputation did not leave with the Porte the address for presentation to the Sultan, the copy of it which had been forwarded to me before the deputation arrived, with a request that it should be given to the Minister for Foreign Affairs, was translated into Turkish, and sent to his Majesty.

I have, &c.
(Signed) HENRY ELLIOT.

No. 202.

Mr. Lindsay to the Earl of Derby.—(Received April 17.)

My Lord, Tyrone House, Belfast, April 16, 1875.

AT a meeting held yesterday in this town, of ministers and gentlemen of various denominations, the subject of the recent persecutions in Turkey was considered, and a Resolution, of which I beg to inclose a copy, was unanimously passed, and which, as Mayor of the town, I was requested to forward to your Lordship, in your capacity as Her Majesty's Secretary for Foreign Affairs.

If I may take the liberty of expressing an opinion in relation to Turkish affairs—so far as England is concerned—if Great Britain is to regain much of the great influence she has lost during the last few years on the shores of the Bosphorus, Smyrna, and other important Turkish centres in the East, the Foreign Office will speedily need as Her Majesty's Representative a gentleman of more force of character and tact than Sir Henry Elliot.

I speak not thus from distant hearsay, but from what I myself saw and heard last spring, when visiting the localities referred to, and from mingling freely amongst all intelligent classes.

If any apology is needed in thus expressing myself, I may add that some years ago I had the honour of a correspondence with your late noble and gifted father on an important and long-vexed Treasury and Post Office, Irish, question, and which I got arranged to his and his Chancellor's entire satisfaction, and at a saving of 15,000*l.* per annum to the Treasury; and that I am known personally to Lord Cairns, Mr. Cross, and Mr. Ward Hunt.

I have, &c.
(Signed) THOS. G. LINDSAY,
Mayor of Belfast.

Inclosure in No. 202.

*Resolution.**Belfast, April 15, 1875.*

MOVED by the Mayor of Belfast (T. G. Lindsay, Esq.,) seconded by Charles Finlay, Esq., J.P., and carried unanimously:—

That this meeting has been gratified to learn the steps taken by the Council of the Evangelical Alliance in aid of their persecuted brethren in Turkey, especially in sending out a deputation to Constantinople to plead with His Majesty the Sultan, and with the Turkish Government, for the redress of wrongs committed in violation of the Hatti-Sheriff granting religious liberty to all subjects of the Ottoman Empire. This meeting resolves that as neither the representations of the British Government, nor the respectful request of the numerous signatories to the Address, has received the favourable attention that was due to them, the Council of the Alliance be requested to continue their efforts, assured of the support of all friends of religious liberty in Belfast, as in other places throughout the United Kingdom.

No. 203.

Lord Tenterden to Mr. Lindsay.

Sir, *Foreign Office, April 22, 1875.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 16th instant, inclosing a copy of a resolution which was passed at a meeting in Belfast on the subject of the steps recently taken by the Evangelical Alliance in aid of religious liberty in Turkey.

I am, &c.
(Signed) TENTERDEN.

No. 204.

Mr. Sandbach to the Earl of Derby.—(Received April 27.)

My Lord,

Manchester, April 26, 1875.

I HAVE been requested to forward to your Lordship a copy of the resolutions passed at a meeting lately held at the house of Mr. Henry Lee, J. P., at Sedgley Park, on the subject of the recent religious persecutions in Turkey.

Permit me to add that the support given by your Lordship to the efforts already made for the relief of the Christians suffering on account of their religious faith was gratefully appreciated.

I have, &c.
(Signed) JOHN E. SANDBACH,
Secretary of the Manchester Branch of the Evangelical Alliance.

Inclosure in No. 204.

Resolution passed at a Meeting held in the House of Henry Lee, Esq., Sedgley Park, Manchester, on Wednesday evening, April 7, 1875.

MOVED by Richard Haworth, Esq.; seconded by Henry Lee, Esq.; supported by John Rylands, Esq., and carried unanimously:—

The meeting has heard with much interest the statements of several members of the deputation that lately proceeded to Constantinople on behalf of Christians suffering religious persecution in Turkey.

It desires to express its regret that the deputation representing so large and influential a body of Christians of various countries were not allowed the opportunity of laying before His Majesty the Sultan the Memorial narrating the facts so contrary to the terms of the Imperial Decree, granting full religious liberty to all His Majesty's subjects.

This meeting approves the course taken by the Council of the Evangelical Alliance

in endeavouring to obtain protection for our Christian brethren in Turkey, and would assure them of the support which Christians in Manchester are ready to give them in furtherance of the object desired.

No. 205.

Mr. Brooke to the Earl of Derby.—(Received April 29.)

My Lord,

Caney Hill House, Dundrum, Dublin, April 27, 1875.

I HAVE been requested to transmit to you the enclosed resolutions passed at a meeting of which I had the honour to be chairman, and earnestly and respectfully to invite the attention of Her Majesty's Government to a subject which deeply interests the friends of religious liberty.

I have, &c.
(Signed) WILLIAM BROOKE.

Inclosure in No. 205.

Resolution.

AT a meeting of the Dublin Branch of the Evangelical Alliance held in Dublin April 9th 1875, the Right Honourable William Brooke in the chair, the following resolution was moved by J. H. Swantin, Esq., J.P.

Seconded by the Rev. W. B. Kirkpatrick, D.D., supported by the Rev. Edward Norman, M.A., and carried unanimously:—

That after hearing statements relative to recent transactions in Turkey sustained by the testimony of Christian Ministers and others resident in Lattakia, Damascus, Beyrout, Marash, and Constantinople, and bearing in mind the correspondence which has appeared in the public journals, this meeting expresses its deliberate conviction painful instances of religious persecution have occurred and continue to be suffered by converts to Christianity, in direct violation of the Hatti-Sheriff granting full religious liberty to all subjects of His Majesty the Sultan.

This meeting further expresses its entire approval of the steps taken by the Council of the Evangelical Alliance in this matter and its deep regret that the humble request contained in the Address to the Sultan should not, up to the present time, have been complied with, it would urge upon the Council to take such further steps as may be thought wise and needful for the release of their persecuted brethren, and assures the Council that it may rely upon the strenuous support of the friends of religious freedom throughout this land.

No. 206.

Lord Tenterden to Mr. Sandbach.

Sir,

Foreign Office, April 29, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 26th instant, inclosing a copy of the resolution which was passed at a meeting held at the house of Mr. Henry Lee, on the subject of religious liberty in Turkey.

I am, &c.
(Signed) TENTERDEN.

No. 207.

Mr. Lister to Mr. Brooke.

Sir,

Foreign Office, April 30, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 27th instant, inclosing a copy of the Resolutions which were passed at a meeting held in Dublin on the subject of religious liberty in Turkey.

I am, &c.
(Signed) T. V. LISTER.

Sir H. Elliot to the Earl of Derby.—(Received May 10.)

My Lord,

Constantinople, April 26, 1875.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 6th instant, directing me to report upon the various matters to which the Evangelical Alliance have called attention, and give my opinion whether the interference of Her Majesty's Government is called for or could properly be exercised in regard to any of them.

Three days before your Lordship's despatch reached me I had received from Mr. Sandison the accompanying report, informing me officially from Safvet Pasha of the removal of the prohibition against the printing of the Bible.

It is long since I received the assurance that the Porte would not retract the promise given by the late Aali Pasha for the free circulation of the Scriptures; but it is only now that I have been able to obtain from the Minister for Foreign Affairs the formal declaration now given, and the transmission of the necessary orders to the Minister of Police.

That there was a disposition on the part of the Porte to prevent the circulation of the Bible is evident, and that I considered Her Majesty's Government entitled to object to such a prohibition, after the assurances that had formerly been given, may be gathered from the remonstrances which I at once made against it, without waiting for any instructions from your Lordship.

It must, however, in fairness, be admitted that the arguments on the side of the Turks were not without their weight.

They said that, while the free exercise of his religion was guaranteed to each of the Sultan's subjects, the right of making proselytes from the religion of the State neither had been nor was intended to be given.

When the permission for the circulation of the Scriptures was granted, it was in the belief that they were destined for the Christian populations, but it had become notorious that the Turkish versions were intended chiefly for distribution among the Mahomedans, in the hope of converting them from their faith, and the injudicious proceedings of some of the colporteurs, which were regretted and disapproved by their employers, of whom it is impossible to speak too highly, gave rise to feelings of hostility on the part of the authorities and the Mussulman public.

With respect to the other points raised by the Evangelical Alliance, I am unable to add anything to what I have already stated to your Lordship in my correspondence on this subject.

The case of the family from Marash was a distinct instance of persecution, and there was an unjustifiable delay in carrying out the engagement that they should be free in every respect, except as regards their return to Marash.

The case of the Ansairiyeh conscripts has been so fully dealt with in my previous despatches that it will be unnecessary for me to do more than repeat the conviction that the statement in the address to the Sultan that the men had been taken because they were Christians was incorrect.

The stress laid upon the fact that no conscription was going on at the time they were taken was attributable to ignorance of the law of recruitment, for it would otherwise have been known that if the men had not appeared at the proper place and time to establish their claims for exemption, they were liable at any moment, whether the conscription was going on or not, as deserters, and this law is now being enforced throughout the Empire with much more strictness than was formerly the case.

In reply, therefore, to your Lordship's question, I cannot hesitate to express the opinion that any interference on the part of Her Majesty's Government is uncalled for and would be undesirable.

That there have been isolated cases of ill treatment of converts is not to be denied; but it can be affirmed with confidence that nothing of a nature of a persecution of Christians is going on.

The native Protestants only complain that they have been kept in a position of inferiority which enabled the other Christian denominations to domineer over and oppress them.

The Greeks and Armenians, who form the immense majority of the Christian populations, make no complaint, nor do the Roman Catholics, with the exception of those known as Hassounists, whose hardships arise from political causes, and were provoked by the encroachments of Rome.

Your Lordship has very recently received from Salonica the testimony of the large Jewish community of that place to the spirit of toleration which they have met with, and from the whole of the non-Mussulman populations of the Empire no complaints are heard excepting there, where the activity of foreign missionaries has excited jealousy and resistance.

I would beg your Lordship not to suppose that I undervalue the benefits that missionaries confer on this country, especially by their continuing efforts in the cause of education, but that it is the indiscreet zeal of some of their number which provokes most of the grievances complained of admits, in my opinion, of no doubt.

I have, &c.
(Signed) HENRY ELLIOT.

Inclosure in No. 208.

Mr. Sandison to Sir H. Elliot.

Sir, *Pera, April 20, 1875.*
IN reply to the representations which have been made by this Embassy on the subject of the prohibition applying to the printing of the Bible at Constantinople, I have the honour to state that I have been specially authorized by Safvet Pasha, the Minister for Foreign Affairs, to convey to your Excellency the formal assurance that this restriction being now removed, no impediment shall be offered hereafter to the free printing of the Bible in this capital.

I have, &c.
(Signed) A. SANDISON.

No. 209.

Mr. Lister to the Rev. C. Jackson.

Sir, *Foreign Office, May 15, 1875.*
WITH reference to Lord Tenterden's letter of the 9th ultimo, I am directed by the Earl of Derby to inform you that a report, dated the 20th ultimo, has been received from Her Majesty's Ambassador at Constantinople, stating that, in reply to the representations which had been made by Her Majesty's Embassy regarding the prohibition against the printing of the Bible at Constantinople, the Turkish Minister for Foreign Affairs had officially communicated to Sir Henry Elliot the formal assurance that the restriction had been removed, and that no impediment would be offered hereafter to the free printing of the Bible in that capital.

I have, &c.
(Signed) T. V. LISTER.

No. 210.

The Rev. J. Davis to the Earl of Derby.—(Received May 31.)

*Evangelical Alliance, 7, Adam Street, Strand,
London, May 31, 1875.*

My Lord,
REFERRING to the interview which your Lordship was kind enough to grant, on the 6th ultimo, to a deputation that waited on you to place in your Lordship's hands a resolution passed at a meeting held at Lord Ebury's (moved by the Archbishop of Canterbury and seconded by Lord Lawrence), on the subject of the religious persecutions in Turkey, I am desirous to inquire of your Lordship if the British Ambassador at Constantinople has been instructed to present to His Majesty the Sultan the address left with his Excellency by a deputation of British signatories, and if any reply has been received.

From communications made to the Council of this Alliance, it appears that as regards the Ansairiyeh converts removed to Beyrout, no change has taken place in their condition or treatment. Gentlemen now in this country, who recently saw them, state that, although forced into the army, these Christian men are entirely without pay; that their clothing was filthy, insufficient, and only the cast-off clothing of others; and that,

notwithstanding statements of their having been removed from the mission schools in order to serve as soldiers, they had not even been put through their drill, but were employed only as the meanest drudges in the regiment.

I remain, &c.
(Signed) JAMES DAVIS.

No. 211.

Lord Tenterden to the Rev. J. Davis.

Sir,

Foreign Office, June 4, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 31st ultimo, inquiring if the British Ambassador at Constantinople has been instructed to present to his Majesty the Sultan the address left with his Excellency by the deputation of the Evangelical Alliance, and if any answer has been received; and I am to state to you in reply that, although Lord Derby was ready to assist the deputation in their visit to Constantinople, so far as the good offices of Her Majesty's Embassy could properly be rendered to them, he did not feel justified in instructing Her Majesty's Ambassador to present the address to the Sultan, and regrets, therefore, to have been unable to meet the wishes of the Evangelical Alliance in this respect.

I am, &c.
(Signed) TENTERDEN.

No. 212.

The Earl of Derby to Sir H. Elliot.

Sir,

Foreign Office, June 10, 1875.

I INCLOSE, for your Excellency's information, copies of despatches, as marked in the margin,* upon the subject of the Address of the deputation of the Evangelical Alliance.

I am, &c.
(Signed) DERBY.

No. 213.

Sir H. Elliot to the Earl of Derby.—(Received July 20.)

(No. 333.)

My Lord,

Therapia, July 5, 1875.

SAFVET PASHA has called upon me to explain the manner in which the printing of the new Turkish translation of the Bible should be proceeded with.

The printers are to present two copies of the Bible to be translated to the Ministry of Public Instruction with a petition to be authorized to print a translation.

The two copies will be stamped by that Ministry, one being retained and the other returned to the printer with the authority to print the translation, which will afterwards be submitted to the Ministry before being issued to the public.

There is no intention of making a critical examination of the translation, and all that will be required is to ascertain that it is a fair reproduction of the original, without addition or comment.

I have ascertained that this arrangement will be considered satisfactory by those charged with the work.

I have, &c.
(Signed) HENRY ELLIOT.

